

National Credit Union Administration  
**SUPPORTING STATEMENT**

Combinations of Credit Unions and Other Types of Financial Institutions  
Subpart D to Part 708a

**OMB No. 3133-NEW**

Summary of Action:

The NCUA published a proposed rule on January 30, 2020, at 85 FR 5336, to adopt new subpart D of part 708a of its regulations. This proposed rule will clarify and make transparent the procedures and requirements currently in place related to combination transactions. Combination transactions include those where a federally insured credit union (FICU) proposes to assume liabilities from a non-credit union, including a bank. They also include a FICU's merger or consolidation with a non-credit union entity. The information collection requirements associated with the submission of a request under subpart D will be covered by this new OMB control number.

**A. JUSTIFICATION**

**1. Circumstances that make the collection of information necessary.**

The NCUA has historically seen a relatively small but consistent number of applications from FICUs seeking to engage in merger or purchase and assumption transactions with banks or other types of financial institutions. Because these transactions occur in relatively small numbers, NCUA has not previously promulgated a detailed rule addressing them. The Board now believes it would be beneficial to clarify the processes and requirements related to FICU applications for these transactions.

The experience the NCUA has gained in recent years while considering each of these transactions on a case-by-case basis informs this rulemaking. This experience has allowed the agency to identify the various issues most frequently presented in these transactions and develop processes for considering these applications. Accordingly, the Board has determined to formalize some of these requirements in this rulemaking under new subpart D to part 708a.

This increased transparency will assist FICUs seeking to engage in these transactions to meet the NCUA's requirements. Section 205 of the Federal Credit Union Act permits FICUs to engage in merger and purchase and assumption transactions with other types of financial institutions.

**2. Purpose and use of the information collected.**

The proposed rule adds new subpart D to part 708a. The new subpart specifies the basic requirements applicable to combination transactions between a FICU and another type of financial institution.

- *Section 708a.402* – The FICU’s board of directors must vote to approve a proposed combination transaction before the FICU submits its application package. This section also requires the directors of a FICU proposing a combination transaction to certify that they understand the nature and ramifications of the proposed transaction. The Board believes a proposed transaction with an institution other than a credit union should receive at least the same level of review from a credit union’s board of directors as a proposed merger with a FICU.
- *Section 708a.403* – highlights critical elements of the application package. The applying FICU must provide basic information about the transaction that enables NCUA staff to evaluate it.
- *Section 708a.404* – requires a FICU proposing a combination transaction to demonstrate that any customer deposits it assumes will be insured by the NCUSIF as of the transaction close.
- *Section 708a.405* – clarifies the requirements for FCU membership. To become a member of the FCU, the other entity’s customer must be within the FCU’s field of membership and affirmatively act through an authoritative vote or individual consent before the transaction close.

**3. Use of information technology.**

The FCU Act does not prescribe any particular form for this information collection. Therefore, FICUs may use any information technology available to reduce the burden imposed by the regulation.

Federal credit Unions may use any available information technology to satisfy the information collection requirements. NCUA encourages the use of electronic information as it simplifies the data collection process and improves the accuracy and timeliness of the data.

**4. Duplication of information.**

This collection of information is unique to each FICU, and each proposed transaction, and is not duplicated.

**5. Efforts to reduce burden on small entities.**

This collection does not have a significant impact on a substantial number of small credit unions.

**6. Consequences of not conducting the collection.**

The Federal Credit Union Act mandates the requirements for conversions and mergers. The Act requires NCUA to approve these transactions. Without the information, NCUA could not fulfill its statutory obligation.

**7. Inconsistencies with guidelines in 5 CFR 1320.5(d)(2).**

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

**8. Efforts to consult with persons outside the agency.**

A Paperwork Reduction Act (PRA) notice was published in the preamble of the proposed rulemaking on January 30, 2020, at 85 FR 5336, providing an opportunity for the public to comment on the information collection requirements prescribed by this rule. Comments will be summarized and addressed in the PRA submission associated with the final rulemaking.

**9. Payment or gifts to respondents.**

There is no intent by NCUA to provide payment or gifts for information collected.

**10. Assurance of confidentiality.**

There is no assurance of confidentiality other than that provided by law.

**11. Questions of a sensitive nature.**

No questions of a sensitive nature are asked. Personally Identifiable Information (PII) is not collected.

**12. Burden of information collection.**

NCUA proposes to add new subpart D to part 708a to clarify and make transparent the procedures and requirements currently related to combination transactions with an institution other than a credit union. All transactions require NCUA approval, and state-chartered FICUs must also obtain their state regulator's approval. The NCUA estimates there will be approximately 20 transactions under this rule every year. While the NCUA currently requires affected FICUs to submit all of the information required in the rule as part of an application, the NCUA is requesting a new OMB control number to cover information collection requirements proposed by new subpart D to part 708a.

12 CFR sec.	Information Collection Activity	Type of Burden	No. of Respondents	No. of Responses per Respondent (Frequency)	Total Annual Response	Hours per Response	Total Annual Burden
§708a.402(c)	Credit union board of directors. A CU proposing a combination transaction must conduct a vote of its board of directors on the proposed transaction before submitting a request.	Record keeping	20	1	20	0.50	10
§708a.403(a)	General. A CU proposing a combination transaction must submit its request to the NCUA	Reporting	20	1	20	200	4,000
§708a.404 (b)(3)	The State Supervisory Authority of a state-chartered CU provides a written statement confirming that the depositors will be CU members at the transaction close under the relevant state's laws.	Reporting	8	1	8	0.50	4
§708a.405(a)	Eligibility. The FCU must confirm that each customer of the non-CU involved in the proposed transaction is within the FCU's field of membership	Record keeping	3	1	3	0.50	1.50
§708a.405(b)	Consent to FCU membership. The FCU must confirm that the customers of the non-CU who are within the FCU's field of membership have consented to become members of the FCU.	Record keeping	3	1	3	0.50	1.50
TOTAL			20		54		4,017

Based on the labor rate of \$35 per hour, the total cost to respondents is \$140,595.

### 13. Capital start-up or on-going operation and maintenance costs.

There are no capital start-up or maintenance costs.

**14. Annualized costs to Federal government.**

Position	# applications	Time per review	Total Review Time	Est. avg. hourly rate*	Total Cost
Technician CU-11	20	6	120	\$44	\$5,280
Analyst CU-13	20	100	2,000	\$58	\$116,000
Attorney CU-15	4	20	80	\$77	\$6,160
Total					\$127,440

\*Average hourly rate based on maximum CU 2019 national pay rate.

**15. Changes in burden.**

This is a new collection.

**16. Information collection planned for statistical purposes.**

The information is not planned for publication.

**17. Request non-display the expiration date of the OMB control number.**

There are no traditional forms associated with this information collection requirement. The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal Government’s electronic PRA docket website at [www.reginfo.gov](http://www.reginfo.gov).

**18. Exceptions to the Certification for Paperwork Reduction Act Submission.**

There are no exceptions to the certification statement.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not involve statistical methods.