

National Credit Union Administration
SUPPORTING STATEMENT

Prompt Corrective Action, 12 CFR 702

(Subparts A-D)

OMB No. 3133-0154

Summary of Action

The NCUA issued two temporary changes on May 28, 2020 (85 FR 31952), to its prompt corrective action (PCA) regulations to provide regulatory relief in response to COVID-19. The first enable the NCUA to issue an order applicable to all FICUs to waive the earnings retention requirement for any FICU that is classified as adequately capitalized. The second modifies the specific documentation required for net worth restoration plans (NWRPs) for FICUs that become undercapitalized. The information collection requirements associated with this rule were approved as an emergency and are scheduled to expire August 31, 2020. This re-submission serves as a renewal to extend the expiration date.

A. JUSTIFICATION

1. Circumstances that make the collection of information necessary.

The information collection is required under section 216 of the Federal Credit Union Act (12 U.S.C. §1790d). Section 216 mandates prompt corrective action requirements for federally insured credit unions (FICUs) that become less than well capitalized. Section 216 requires the NCUA Board to (1) adopt, by regulation, a system of prompt corrective action to restore the net worth of inadequately capitalized FICUs; and (2) develop an alternative system of prompt corrective action for new credit unions that carries out the purpose of prompt corrective actions while allowing an FICU reasonable time to build its net worth to an adequately capitalized level. Part 702 implements the statutory requirements. To achieve this, various information collections are required on occasion as the circumstances require. Part 702, subparts A through D, contains the following information collection requirements (ICRs):

- Request for NCUA approval prior to taking specific actions when operating under a Discretionary Supervisory Action;
- Appeal to the NCUA Board of certain Mandatory Conservatorship, Liquidation, or Other Corrective Action;
- Request for approval to charge regular reserves or pay dividends if the action would cause the credit union's net worth to fall below adequately capitalized and the action is not included in an approved net worth restoration plan (NWRP);
- Submission of a NWRP and resubmission of a NWRP when there has been a change in the credit union's net worth category or the plan was denied by NCUA;
 - ***Temporary modification: 701.206(c)(4) – The NCUA Board may permit a credit union that is undercapitalized to submit a streamlined NWRP plan attesting***

that its reduction in capital was caused by share growth and that such share growth is a temporary condition due to COVID-19.

- Request from a small or new credit union for assistance in developing an NWRP or revised business plan (RBP);
- Request for a waiver of the earnings transfer requirement if the credit union is below well capitalized;
 - ***Temporary modification: 702.201(b)(2) – The NCUA Board may issue an administrative order specifying temporary revisions to the earning retention requirement.***
- Written notice from a new credit union if its net worth classification declines;
- New credit union submission of a RBP if the credit union’s net worth classification declines or a RBP is denied by NCUA, and
- Request for approval of a risk mitigation credit if elected by the credit union.

2. Purpose and use of the information collected.

The purpose of prompt corrective action is to resolve the problems of FICUs at the least possible long-term loss to the National Credit Union Share Insurance Fund (NCUSIF). NCUA requires various information collections to meet the purpose of prompt corrective action. Part 702, subparts A through D, establishes a framework of discretionary and mandatory supervisory actions, applicable according to a credit union’s net worth ratio, designed primarily to restore and improve the net worth of FICUs. Some of these supervisory actions require a credit union to request approval prior to taking specific actions. Credit unions meeting certain criteria are required to submit plans detailing how they will improve their net worth position. Additionally, Part 702 allows for various waivers to the requirements outlined in Part 702. NCUA uses the information to determine whether the credit union is restoring its net worth in accordance with prompt corrective actions or to determine whether a waiver of certain requirements is warranted.

3. Use of information technology.

Credit unions may use any information technology available to submit the required information.

4. Duplication of information.

The information collection is unique to each credit union and is not duplicated.

5. Efforts to reduce burden on small entities.

The statute and regulation require the same information to be collected from small entities as from other entities. The regulation allows small and new entities to request assistance in developing a NWRP or RBP.

6. Consequences of not conducting the collection.

The FCU Act mandates the requirements for prompt corrective action. NCUA needs the information collected to ensure credit unions are complying with prompt corrective action requirements. The consequence of noncompliance would be severe because noncompliance could lead to large losses to the NCUSIF.

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.

The revisions to this information collection received emergency approval on May 28, 2020, for a period of three months, during which time NCUA would solicit public comments for 60-days. This PRA notice was embedded in the preamble of interim final rulemaking, Temporary Regulatory Relief in Response to COVID-19 – Prompt Corrective Action, published May 28, 2020, at 85 FR 31952. No comments were received on the information collection requirements prescribed by this rulemaking.

9. Payment or gifts to respondents.

No payment or gift is provided to respondents.

10. Assurance of confidentiality.

There is no assurance of confidentiality other than that provided by law. Certain credit union information obtained in this information collection or as part of NCUA's supervisory process is confidential.

11. Questions of a sensitive questions.

There are no questions of a sensitive nature. No personal identifiable information (PII) is collected.

12. Burden of information collection.

The rule includes multiple information collections (ICs), each of which would be submitted on occasion as the circumstances require. The annual estimated number of respondents and estimated burden hours were calculated for each IC using historical submission data. The burden is detailed below.

12 CFR section	Information Collections	# Respondents	# Responses per Respondents	Total Annual Response	Hours per Response	Total Annual Burden	Currently Approved	Difference
1	702.202(b)(1) 702.203(b)(1) 702.204(b)(1) 702.202(b)(8) 702.203(b)(9) 702.204(b)(9) 702.203(b)(10) 702.204(b)(10) 702.204(b)(12)	1	1	1	1	1	1	0
2	702.204(c)(4) 702.205(a)(3)	1-	1	1	1	1	1	0
3	702.401(c)(2) 702.403(b)(2)	20	2	40	3	120	120	0
4	702.202(a)(2) 702.203(a)(2) 702.204(a)(2) 702.206(a)(3) 702.206(g)(1) 702.206(h)	Other	8	1	8	27	2,592	-2,314
		Under capitalized	31	1	31	2		
5	702.206(b) 702.307(a)	2	1	2	5	10	10	0
6	702.201(b)	23	3	69	2	138	678	-570
7	702.302(b)	1	1	1	1	1	1	0
8	702.304(a)(2) 702.305(a)(2) 702.306(f)(1)	1	1	1	20	20	20	0

9	702.108(b)	Credit unions meeting certain criteria may request approval of a risk mitigation credit for use in calculating its risk based net worth requirement.	1	1	1	0	0	0	0
		TOTALS	89		155		569	3,423*	-2,854

*Error in previous total burden; 3,420 hours reported (2018). Correct total appears.

Line Items 1, 2, 7, & 9: These information collection activities have had no respondents provide information since the last reporting period. For this submission, NCUA will identified one respondent for these information collection activities with no burden assigned. NCUA will monitor and update these information collection activities with each review.

The estimated hourly wage rate of \$35 is applied for a total cost to respondents at \$19,915.

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

There are no capital start-up or maintenance costs.

14. Annualized costs to the Federal government.

The total cost for NCUA staff to review and act upon these information collections are as follows:

	Information Collection	# of Annual Requests	Hours to Review	Total Annual Hours
1	Approval for specific actions when operating under a discretionary supervisory action.	0	0	0
2	Appeal of mandatory conservatorship, liquidation or other corrective action.	0	0	0
3	Charge regular reserves or pay dividends if net worth fall below adequately capitalized and action is not included in approved net worth restoration Plan (NWRP).	40	4	160
4	Submission and resubmission of a NWRP that has been denied because change in the credit union's net worth category.	39	13	507
5	Small or new credit union assistance in developing a NWRP or revised business plan (RBP).	2	8	16
6	Request waiver of earnings transfer requirement if below well-capitalized	69	3	207
7	Written notice net worth classification declines.	0	0	0
8	New submission of a RBP if net worth classification declines or a RBP is denied.	1	19	19
9	Risk mitigation credit if elected.	0	0	0
Total Estimated Annual Hours				909
Average hourly wage rate for an Analyst (Based on the midpoint of NCUA's pay scale and the "All Other" locality rate)				\$54
Total Estimated Cost to NCUA				\$49,086

15. Changes in information collection burden.

The amendment to §702.201 is decreasing the earnings retention requirement for all FICUs that are classified as adequately capitalized during this time. Currently, FICUs must request a waiver for each quarterly transfer made from undivided earning to its regular reserve account until well capitalized. By the actions of this rule the waiver requirement is temporary suspended for adequately capitalized credit unions and the information collection requirement will be reduced from 113 respondents providing three waivers annually to 23 respondents.

Section 702.206 provides that a FICU that is less than adequately capitalized must submit an applicable NWRP to the NCUA. The temporary rule allows a FICU that becomes undercapitalized to submit a significantly simpler NWRP to NCUA, which will reduce the estimated burden associated with the preparation from 27 hours to 2 hours. This would affect an estimated 31 FICUs that would fall under the category of undercapitalized.

These temporary amendments are currently in place until December 31, 2020, and will reduce the number of estimated responses from 482 to 155, with a decrease in the estimated total burden hours by 2,851, for a total information collection burden of 569 hours.

16. Information collection planned for statistical purposes.

The information collection is not used for statistical purposes.

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.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.