



## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 741

### RIN 3133-AF94

### Requirements for Insurance; Maximum Borrowing Authority

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule.

**SUMMARY:** The NCUA Board (Board) seeks comment on a proposed rule to remove the maximum borrowing authority from the NCUA’s regulations that establish the requirements for obtaining and maintaining federal share insurance with the National Credit Union Share Insurance Fund (Share Insurance Fund). This provision applies to all federally insured credit unions (FICUs). Removing this regulation would eliminate an unnecessary provision that duplicates the statutory maximum borrowing limit for federal credit unions (FCUs). For federally insured, state-chartered credit unions (FISCU), removing this section would reduce the federal regulatory burden associated with the federal limit and related waiver provision.

**DATES:** Comments must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Comments may be submitted in one of the following ways. **(Please send comments by one method only):**

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. The docket number for this proposed rule is NCUA–2026–0134. Follow the “Submit a comment” instructions. If you are reading this document on [federalregister.gov](https://federalregister.gov), you may use the green “SUBMIT A PUBLIC COMMENT” button beneath this rulemaking’s title to submit a comment to the [regulations.gov](https://www.regulations.gov) docket. A plain language summary of the proposed rule is also available on the docket website.

- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mailing address.

Mailed and hand-delivered comments must be received by the close of the comment period.

*Public inspection:* Please follow the search instructions on <https://www.regulations.gov> to view the public comments. Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments are public records; they are publicly displayed exactly as received and will not be deleted, modified, or redacted. Comments may be submitted anonymously. If you are unable to access public comments on the internet, you may contact the NCUA for alternative access by calling (703) 518–6540 or emailing [OGCMail@ncua.gov](mailto:OGCMail@ncua.gov).

**FOR FURTHER INFORMATION CONTACT:** Keisha Brooks, Attorney-Advisor, Office of General Counsel, at (703) 518-6540 or at 1775 Duke Street, Alexandria, VA 22314.

## **SUPPLEMENTARY INFORMATION:**

### **I. Introduction**

Part 741 of the NCUA’s regulations implements Title II of the Federal Credit Union Act (FCU Act), which governs the Share Insurance Fund.<sup>1</sup> Part 741 applies to all FICUs and prescribes various requirements for obtaining and maintaining federal share insurance and the payment of insurance premiums and the capitalization deposit.<sup>2</sup> Subpart A of part 741 contains substantive requirements that are not codified elsewhere in the

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<sup>1</sup> 12 U.S.C. 1781 *et seq.*

<sup>2</sup> 60 FR 58504 (Nov. 28, 1995).

NCUA's regulations. Subpart B lists additional regulations, set forth elsewhere in the NCUA's regulations as applying to FCUs, that also apply to FISCUs.<sup>3</sup>

*A. Background*

Among part 741's requirements, § 741.2 of the NCUA's regulations establishes a maximum borrowing authority for FICUs, limiting aggregate borrowing from any source to an amount not in excess of 50 percent of its paid-in and unimpaired capital and surplus. Under section 107(9) of the FCU Act, FCUs have the express power to borrow, in accordance with such rules and regulations as may be prescribed by the Board, from any source, limited to 50 percent of paid-in and unimpaired capital and surplus.<sup>4</sup> Section 741.2 implements this statutory borrowing authority for FCUs.

In 1971, shortly after the passage of Title II of the FCU Act, the Board issued regulations governing various aspects of the share insurance program.<sup>5</sup> In particular, the Board issued a regulation requiring all FICUs to comply with the FCU Act's borrowing limit.<sup>6</sup> In 2004, the NCUA amended § 741.2 to add a waiver process for FISCUs seeking to exceed the 50 percent borrowing limit.<sup>7</sup> The provision allowed a FISCU to apply to the appropriate regional director for authority to borrow up to the amount permitted by applicable state law or its state regulator. The 2004 amendment was intended to provide these credit unions with greater flexibility, consistent with principles of dual chartering.

At that time, the Board determined that borrowing more than 50 percent of paid-in and unimpaired capital and surplus may cause an undue risk to the Share Insurance Fund and a loss of confidence in the credit union system. The waiver process made the NCUA aware of those FISCUs seeking a waiver from the maximum borrowing limit and enabled

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<sup>3</sup> See 64 FR 41040 (July 29, 1999); 65 FR 8593 (Feb. 18, 2000); 67 FR 71094 (Nov. 29, 2002); 77 FR 5162 (Feb. 2, 2012).

<sup>4</sup> 12 U.S.C. 1757(9).

<sup>5</sup> Pub. L. 91-468 (Oct. 19, 1970).

<sup>6</sup> 36 FR 10844 (June 4, 1971).

<sup>7</sup> Final Rule, 69 FR 8547 (Feb. 25, 2004). In the preamble to the proposed rule, the Board noted that, at the time of the 1971 rule, some states had no limitations on borrowing by FISCUs. Proposed Rule, 68 FR 56537 (Oct. 1, 2003).

monitoring of such credit unions. To ensure safety and soundness, the waiver process required the credit union to submit a detailed analysis of the safety and soundness implications of the waiver, a proposed aggregate dollar amount or percentage of paid-in and unimpaired capital and surplus limitation, a letter from the state regulator approving the request, and an explanation of the need for a higher limit.<sup>8</sup>

### *B. Legal Authority*

The Board has the legal authority to issue this proposed rule pursuant to its plenary rulemaking authority under the FCU Act and its specific rulemaking authority under the law.<sup>9</sup> Under the FCU Act, the NCUA is the chartering and supervisory authority for FCUs and the federal supervisory authority for FICUs.<sup>10</sup> The FCU Act grants the NCUA a broad mandate to issue regulations governing all FICUs. Section 120 of the FCU Act is a general grant of regulatory authority and authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.<sup>11</sup> Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.<sup>12</sup> Section 209 of the FCU Act is a plenary grant of regulatory authority to the Board to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.<sup>13</sup> Additionally, section 107(9) of the FCU Act authorizes the Board to issue regulations governing borrowing by FCUs.<sup>14</sup> Accordingly, the FCU Act grants the Board broad rulemaking authority to ensure that the credit union industry and the Share Insurance Fund remain safe and sound.

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<sup>8</sup> 12 CFR 741.2(b).

<sup>9</sup> 12 U.S.C. 1766, 1789.

<sup>10</sup> 12 U.S.C. 1752-1775.

<sup>11</sup> 12 U.S.C. 1766(a).

<sup>12</sup> 12 U.S.C. 1787(b)(1).

<sup>13</sup> 12 U.S.C. 1789(a)(11).

<sup>14</sup> 12 U.S.C. 1757(9).

## II. Proposed Rule

Section 741.2 places a limit on the amount FICUs may borrow from any source, setting the ceiling at 50 percent of its paid-in and unimpaired capital and surplus. For FCUs, the 50 percent borrowing limit is explicitly established by statute and implemented in part 701, making § 741.2 duplicative and unnecessary for FCUs.<sup>15</sup> Its removal simplifies the Code of Federal Regulations and reduces the volume of rules credit unions must track without altering the Board's authority or the obligations of FCUs. The Board would continue to ensure safety and soundness with respect to borrowing activities through its standard examination and supervision processes.

For FISCUs, the regulation's extension of this specific borrowing limit was a discretionary policy choice, not a statutory mandate. The regulation not only extends this limit to FISCUs but also creates a complex waiver process. The Board has reconsidered its position that applying the maximum borrowing limit to FISCUs is necessary for safety and soundness, and instead finds the current requirements impose an unnecessary burden without a corresponding statutory mandate or significant safety and soundness benefit. The Board believes that safety and soundness considerations related to borrowing by FISCUs can be more effectively and efficiently monitored through the risk-based examination and supervision process, in close coordination with state regulators where applicable. Removing this section would reduce administrative burdens associated with the federal limit and related waiver process while maintaining robust supervisory oversight. This approach is more flexible and better respects the dual-chartering system by avoiding a rigid, one-size-fits-all federal rule.

The Board solicits comments on all aspects of this proposal. Specifically, the Board seeks comment on whether these provisions are redundant of existing statutory

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<sup>15</sup> See 12 U.S.C. 1757(9); 12 CFR § 701.38. Unlike § 741.2, § 701.38 outlines the contractual requirements for FCU borrowings.

authority, particularly state laws or regulations, and whether their elimination would simplify compliance for FICUs without negatively impacting regulatory clarity or safety and soundness.

### **III. Regulatory Procedures**

#### *A. Providing Accountability Through Transparency Act of 2023*

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) (Act) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov). The Act, under its terms, applies to notices of proposed rulemaking and does not expressly include other types of documents that the Board publishes voluntarily for public comment, such as notices and interim-final rules that request comment despite invoking “good cause” to forgo such notice and public procedure. The Board, however, has elected to address the Act’s requirement in these types of documents in the interests of administrative consistency and transparency.

In summary, the Board seeks comment on a proposed rule to remove the maximum borrowing authority from the NCUA’s regulations that establish the requirements for obtaining and maintaining federal share insurance with the Share Insurance Fund. This provision applies to all FICUs. Removing this regulation would eliminate an unnecessary provision that duplicates the statutory maximum borrowing limit for FCUs. For FISCUs, removing this section would reduce the federal regulatory burden associated with the federal limit and related waiver provision.

The proposal and the required summary can be found at <https://www.regulations.gov>.

### *B. Executive Orders 12866, 13563, and 14192*

Pursuant to Executive Order 12866 (“Regulatory Planning and Review”), as amended by Executive Order 14215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.<sup>16</sup> Executive Order 13563 (“Improving Regulation and Regulatory Review”) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866.<sup>17</sup> This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. For FCUs, removing § 741.2 would eliminate a regulation that unnecessarily duplicates a statutory requirement that is implemented in part 701. For FISCUs, removing § 741.2 would reduce the regulatory burden associated with a complex waiver process. The proposed rule is consistent with Executive Order 13563. OMB has determined that this proposed rule is not a “significant regulatory action” as defined in section 3(f)(1) of Executive Order 12866.

Executive Order 14192 (“Unleashing Prosperity Through Deregulation”) requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.<sup>18</sup> This proposed rule is expected to be a deregulatory action for purposes of Executive Order 14192.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act<sup>19</sup> generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking

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<sup>16</sup> 58 FR 51735 (Oct. 4, 1993).

<sup>17</sup> 76 FR 3821 (Jan.21, 2011).

<sup>18</sup> 90 FR 9065 (Feb. 6, 2025),

<sup>19</sup> 5 U.S.C. 601 *et seq.*

requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the agency makes such a certification, it shall publish the certification at the time of publication of either the proposed rule or the final rule, along with a statement providing the factual basis for such certification.<sup>20</sup> For purposes of this analysis, the NCUA considers small credit unions to be those having under \$100 million in assets.<sup>21</sup> The Board fully considered the potential economic impacts of the regulatory amendments on small credit unions.

To the extent that the proposed rule would have any economic impacts, they will be deregulatory in nature. The proposed rule would reduce regulatory burdens on FICUs by eliminating an unnecessary provision within the NCUA's regulations that impose requirements on FICUs for obtaining and maintaining federal share insurance. For FCUs, removing § 741.2 would eliminate a regulation that unnecessarily duplicates a statutory requirement that is implemented in part 701. For FISCUs, removing § 741.2 would reduce the regulatory burden associated with a complex waiver process.

Accordingly, particularly based on the few waiver requests the NCUA has received, the NCUA certifies the proposed rule would not have a significant economic impact on a substantial number of small credit unions.

#### *D. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) generally provides that an agency may not conduct or sponsor, and not withstanding any other provision of law, a person is not required to respond to, a collection of information, unless it displays a currently valid Office of Management and Budget control number.

The PRA applies to rulemakings in which an agency creates a new or amends existing information collection requirements. For purposes of the PRA, an information-

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<sup>20</sup> 5 U.S.C. 605(b).

<sup>21</sup> 80 FR 57512 (Sept. 24, 2015).

collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The NCUA has determined that the changes in the proposed rule do not create a new information collection or revise an existing information collection as defined by the PRA.

*E. Executive Order 13132 on Federalism*

Executive Order 13132 encourages certain agencies to consider the impact of their actions on state and local interests. The NCUA, an agency as defined in 44 U.S.C. 3502(5), complies with the executive order to adhere to fundamental federalism principles. This proposed rule would apply to all FICUs, including FISCUs. The NCUA expects that any effect on states or on the distribution of power and responsibilities among the various levels of government will be minor. The proposed change would eliminate a regulation that duplicates a statutory requirement only applicable to FCUs. The proposed change would also reduce the regulatory burden associated with a regulatory waiver process only applicable to FISCUs and is not intended to affect the division of responsibilities between the NCUA and state regulatory authorities with oversight of FISCUs. This proposed rule would apply to FCUs and FISCUs. The rulemaking may, therefore, have some effect on the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, to the extent the rule has any such effects, they will relieve FISCUs of regulatory burden. The proposed rule would remove a duplicative rule for FCUs and, deferring to state law as appropriate, provide greater flexibility for FISCUs by reducing the administrative burden associated with a federal limit and a federal regulatory waiver process. The rulemaking would therefore not have direct effect on the states, the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Assessment of Federal Regulations and Policies on Families*

The NCUA has determined that this proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999.<sup>22</sup> The proposed rule relates to the maximum borrowing limits for FICUs, and any effect on family well-being is expected to be indirect. The potential positive effect on family well-being, including financial well-being is, at most, indirect.

**List of Subjects in 12 CFR Part 741**

Bank deposit insurance, Credit, Credit unions, Reporting and Recordkeeping requirements.

By the National Credit Union Administration Board, this 23<sup>rd</sup> day of January, 2026.

**Melane Conyers-Ausbrooks,**

*Secretary of the Board.*

For the reasons stated in the preamble, the NCUA Board proposes to amend 12 CFR part 741, as follows:

**PART 741 – REQUIREMENTS FOR INSURANCE**

1. The authority citation for part 741 continues to read as follows:

**Authority:** 12 U.S.C. 1757, 1766(a), 1781-1790, and 1790d; 31 U.S.C. 3717.

**§ 741.2 [Removed and reserved]**

**2. Remove and reserve § 741.2.**

[FR Doc. 2026-01697 Filed: 1/27/2026 8:45 am; Publication Date: 1/28/2026]

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<sup>22</sup> Public Law 105–277, 112 Stat. 2681 (1998).