This document is scheduled to be published in the Federal Register on 2026-10-15 and available online at **https://www.federalregister.gov/d/2026-21087**, and on **https://govinfo.gov**

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 704 and 713

RIN 3133-AG04

Corporate Credit Unions; Fidelity Bond and Insurance Coverage for Federally Insured Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule

SUMMARY: The NCUA Board (Board) seeks comment on proposed amendments to its regulations governing fidelity bond and insurance coverage for federally insured credit unions (FICUs). The proposed rule would eliminate certain prescriptive procedural mandates and simplify requirements for coverage amounts and deductibles. The intended effect is greater flexibility for FICUs, simplified compliance, and reduced administrative costs without compromising safety and soundness.

DATES: Comments must be received on or before [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 the proposed rule is NCUA–2026–1882. Follow the "Submit a comment" instructions. If you are reading this document on 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 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.*

FOR FURTHER INFORMATION CONTACT: Damon P. Frank, Senior Trial Attorney, Office of General Counsel, at (703) 518-6540 or at 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION:

I. Legal Authority and Background

The Board proposes to amend its regulations at part 713, which govern fidelity bond and insurance coverage for FICUs. The provisions of part 713 note the responsibility of a FICU's board of directors to maintain adequate insurance, set the minimum requirements for fidelity bond coverage and deductibles, and outline NCUA's process for approving bond forms.

A. Legal Authority

The Board has the legal authority to issue the proposed rule pursuant to its plenary rulemaking authority under the Federal Credit Union Act and its specific rulemaking

authority related to statutory requirements mandating the bonding of FICU employees and officials to protect against losses. The NCUA's statutory authority for these rules is found at 12 U.S.C. 1761a, 1761b(2), 1766(a), 1766(h), and 1789(a)(11).

B. Regulatory History

The Board established the current framework for fidelity bond and insurance coverage in a final rule published on May 27, 1999.[1] The 1999 rule created part 713 by redesignating and revising the requirements previously set forth in § 701.20. The primary purpose of the 1999 rule was to update and clarify the requirements related to fidelity bond coverage, for credit unions to better understand them and to enhance regulatory effectiveness.

Over the years, the Board has amended part 713 to keep pace with the evolving financial and technological environment. In a final rule published on October 26, 2005,[2] the Board modernized the regulation by increasing the minimum required coverage limits to account for inflation, asset growth, and increased risks from technology and insider fraud. The 2005 rule also increased the maximum permissible deductible from $200,000 to $1 million for certain credit unions.

The Board enacted a significant update to part 713 with a final rule published on July 24, 2019.[3] This amendment was prompted by an increase in losses to the National Credit Union Share Insurance Fund resulting from bond issuers rescinding coverage when the signatory on the application was aware of fraudulent activity. To strengthen oversight by boards of directors and mitigate this risk, the 2019 rule amended § 713.2 to require a FICU's board of directors to do the following:

- Review all applications for bond purchase or renewal;

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[1] 64 FR 28720 (May 27, 1999).
[2] 70 FR 61713 (Oct. 26, 2005).
[3] 84 FR 35517 (July 24, 2019).

- Approve submission of any such application by board resolution; and
- Delegate a non-employee board member to sign the agreement updating bond coverage, with the individual signing the agreement rotating to prevent the same signatory on consecutive renewals.

To better protect the National Credit Union Share Insurance Fund from losses related to liquidations, the 2019 rule amended § 713.3 to require that additional coverage be offered after a FICU is liquidated, which if purchased would provide a 12-month window enabling a claim to be filed under the bond for losses discovered after liquidation. In the 2019 rule, the Board amended § 713.4 by introducing a 10-year expiration period for any Board-approved bond form, to ensure the form remained current. This change was instituted after the Board discovered that some fidelity bonds issued on previously approved forms contained outdated provisions, unapproved additions, or were being misinterpreted. The 2019 rule likewise amended § 704.18, which provides fidelity bonds requirements for federally insured corporate credit unions, to add these requirements for fidelity bond purchases and renewals made by corporate credit unions.

On October 27, 2021, the Board published a final rule[4] that made a technical amendment to § 713.6 as part of a broader update to the NCUA's supervisory ratings, which added the "S" component to the CAMELS rating system.

II. Proposed Rule

The Board is proposing several amendments to parts 704 and 713 to reduce regulatory burden, eliminate overly prescriptive requirements, and streamline the regulation while still requiring FICUs to maintain adequate fidelity bond coverage to protect against loss. The following discussion details the proposed changes and the Board's rationale. The Board invites comments on all aspects of this proposal.

[4] 86 FR 59289 (Oct. 27, 2021).

A. Streamlining Procedural Requirements

The Board proposes to amend provisions in §§ 704.18, 713.2, and 713.4 that impose specific procedural requirements related to fidelity bonds. The Board believes these to be unnecessarily prescriptive and that their removal will reduce administrative burden on FICUs and bond issuers without compromising safety and soundness.

First, the Board proposes to amend § 713.2(b) by removing the requirement that the FICU's full board of directors review all applications for purchase or renewal of fidelity bond coverage. The Board believes that this requirement is unduly burdensome. The 2019 rule added this requirement in part to strengthen board oversight of fidelity bond purchases and renewals. The Board now believes that FICU boards can retain effective oversight by reviewing coverage annually, as § 713.2 required before 2019 and would continue to require under the proposed rule.

However, as noted in the 2019 rule, the Board was and remains concerned about the risk of a FICU's fidelity bond being revoked based on its signatory's knowledge of fraud or other potential claims under the bond, and thus believes it should retain some procedural safeguards. Accordingly, the Board is proposing to revise § 713.2(b) to authorize a FICU board to delegate, or otherwise authorize, review and approval of applications for purchase and of renewals to an individual member of the board or the supervisory or audit committee of the FICU. The proposed rule would also authorize a FICU board to similarly delegate or otherwise authorize the final signature to a member of the board, supervisory, or audit committee who is not also an employee of the FICU. This limitation is meant to mitigate against the risk cited in the 2019 rule that a manager or chief executive officer would be more likely than a board member to be engaged in, or know of, fraud or other potential claims. By continuing to bar people in those positions from authorizing new or renewed bonds, NCUA is seeking to limit the possibility that a bond will be revoked, while recognizing that FICU boards may benefit from delegating

these administrative functions to appropriate individuals. Under the proposed rule, a FICU board would still be able to review and approve fidelity bond purchases and renewals, despite the new option to delegate this task. The proposed rule is also intended to be flexible procedurally. That is, a FICU board may specifically delegate this authority to an individual member of the board or supervisory or audit committee, or such an individual may be deemed duly authorized by virtue of their assigned duties or areas of responsibility.

Likewise, the Board is proposing to remove language in § 713.2(b) that prohibits a member of the FICU's board of directors from signing consecutive fidelity bond purchase or renewal agreements. The requirement was added in the 2019 rule for the reasons just noted for the board approval requirement. However, the Board finds that this is an overly prescriptive requirement that creates an undue burden, particularly for smaller FICUs that may have a limited number of non-employee board members available to serve as a signatory. Accordingly, the Board is proposing to remove this rotation requirement.

Second, the Board proposes to eliminate § 713.4(d) in its entirety. This paragraph establishes an automatic 10-year expiration period for the Board's approval of all fidelity bond forms. The statutory authority in 12 U.S.C. 1766(h) grants the Board the power to approve the "form" of the bond but does not specify a temporal limit for that approval. The creation of an automatic 10-year expiration cycle is a substantive requirement not found in the statute. This provision was added in 2019 to reduce occurrences of Board-approved bond forms becoming outdated or conflicting with post-approval statutory or regulatory changes. The Board now believes this automatic sunset provision creates an unnecessary and recurring administrative burden for both FICUs and bond issuers who must seek re-approval for forms that may still be suitable. A FICU board would remain responsible for ensuring that it uses only NCUA-approved forms and should contact

NCUA if they need to confirm the validity of specific forms. The proposed change does not diminish the Board's authority to review bond forms at any time and rescind approvals as appropriate. Removing § 713.4(d) will eliminate a recurring burden while retaining the Board's ability to ensure all approved forms remain current.

Finally, the Board proposes to make parallel changes to § 704.18 for corporate credit unions. Specifically, the Board proposes to revise § 704.18(b)(2) to provide the same delegation option and limitation proposed for § 713.2(b). The 2019 rule added these requirements to the corporate credit union regulation for the same reasons that supported the changes to part 713. Accordingly, the Board finds it appropriate to propose the same changes in § 704.18(b)(2) as for § 713.2(b). Likewise, the Board is proposing to revise § 704.18(c)(3) to remove the 10-year expiration provision that it is proposing to remove from § 713(d). The reasons for removing this provision from part 713 apply equally to corporate credit unions—that is, the change would reduce burden on FICUs and fidelity bond carriers who would otherwise need to have all their forms reapproved by NCUA even if they remain suitable. As with § 713.2(a), § 704.18(b)(1) would continue to require a corporate credit union's board to review coverage carefully, which would keep its oversight intact.

The Board invites public comment on these proposed changes.

B. Simplifying Coverage Requirements

The Board also proposes changes to § 713.5 to simplify the rules governing the minimum amount of fidelity bond coverage under a FICU's bond. The change is intended to eliminate redundant or advisory language and remove inflexible formulas.

First, the Board proposes removing two paragraphs from § 713.5, which specify the minimum required dollar amount of fidelity bond coverage. These paragraphs use the word "should," which creates uncertainty for FICUs as to whether the provision is a requirement or a recommendation, leading to potential confusion regarding compliance.

Changing the minimum requirements stated in § 713.5(a) through use of ambiguous thresholds for additional coverage is not the best reading of the Board's statutory authority to prescribe a required "amount" for "reasonable coverage."

The proposal would eliminate paragraph (b), which states a FICU's board of directors "should purchase" additional coverage beyond the regulatory minimum as circumstances warrant. A FICU's board of directors already has a fundamental fiduciary duty to ensure the institution operates in a safe and sound manner, which includes securing insurance coverage that is adequate for its specific risk profile. This paragraph is purely advisory and restates a basic principle of corporate governance. Its removal simplifies the regulation without diminishing underlying responsibilities of the FICU's board of directors.

In addition, the proposal would eliminate paragraph (c), which states that FICUs "should maintain increased coverage" based on a specific formula tied to the amount of daily cash on hand or money in transit. The Board believes this provision is both overly prescriptive and ambiguous. Moreover, a rigid formula focused on only two specific criteria may not be the most relevant measure of risk for all FICUs in a modern financial environment. The existing requirement in § 713.2(a) for the board of directors to conduct an annual review based on potential risks contains a sufficiently effective, flexible, principles-based approach to determining a FICU's amount of fidelity bond coverage.

The Board invites comment on these proposed changes. The Board also specifically requests comment on one aspect of current § 704.18. The Board notes that § 704.18(d)(2) contains a "duty" for a corporate credit union's board to provide adequate protection for its unique circumstances by obtaining, when necessary, coverage above the minimum required amounts. While this provision is stated as a mandate and not guidance, the Board requests comment on eliminating this provision. The reason for removing this provision would differ from the reason for removing the guidance in part

713. The Board is interested in public feedback on whether the part 704 duty is too vague to offer a corporate credit union board enough direction on when or whether NCUA would expect it to obtain extra coverage voluntarily.

C. Making Technical Corrections

The Board additionally proposes to make a conforming change to § 704.18(c)(3) for corporate credit unions, in a manner more consistent with the parallel provision of § 713.4(c) for FICUs. The separation of current § 704.18(c)(3) into new subsections (i) and (ii) would be to make clear there are two distinct prohibited scenarios. No substantive effect is intended by this technical conforming amendment.

The Board similarly proposes to make a conforming change to § 713.4(c) for FICUs, to correct an inconsistency with the parallel provision of § 704.18(c)(3) for corporate credit unions. The two clauses found in the proposed § 704.18(c)(3)(i) and (ii) are separated by the word "and," while the same clauses found in the current § 713.4(c) are separated by the word "or." However, these provisions were always intended to create identical prohibitions, and have both been treated as the same in practice since the 2019 amendments. To eliminate this textual discrepancy, the Board now proposes to use "or" in both § 704.18(c) and § 713.4(c), which is best read in a way consistent with present practice that prohibits credit unions from using any of the bond documents described. No substantive effect is intended by this technical conforming amendment.

III. Regulatory Procedures

A. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023[5] 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

[5] 5 U.S.C. 553(b)(4).

internet website under section 206(d) of the E-Government Act of 2002[6] (commonly known as *Regulations.gov*).

In summary, the Board seeks comment on proposed amendments to its regulations governing fidelity bond and insurance coverage for FICUs. The proposed rule would eliminate certain prescriptive procedural mandates and simplifies requirements for coverage amounts and deductibles. The intended effect is greater flexibility for FICUs, simplified compliance, and reduced administrative costs without compromising safety and soundness. The proposal and the required summary can be found at *https://www.regulations.gov*.

B. Regulatory Review - Executive Orders 12866, 13563 and 14192

Pursuant to Executive Order 12866 ("Regulatory Planning and Review"), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Information and Regulatory Affairs (OIRA), within the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.[7] 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.[8] This proposed rule was drafted and reviewed in accordance with Executive Order 12866 and Executive Order 13563. OIRA has determined that this proposed rule is not a "significant regulatory action" as defined by section 3(f) 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

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[6] 44 U.S.C. 3501 note.

[7] 58 FR 51735 (Oct. 4, 1993).

[8] 76 FR 3821 (Jan.21, 2011).

10 prior regulations.[9] This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866. The proposed rule is expected to be a deregulatory action under Executive Order 14192.

C. The Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) generally provides that an agency may not conduct or sponsor, and notwithstanding 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-collection requirement may take the form of a reporting, recordkeeping, or third-party disclosure requirement. The NCUA has determined that the changes addressed in this notice do not create a new information collection or revise an existing information collection as defined by the PRA.

D. The Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking 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. For purposes of this analysis, the NCUA considers small credit unions to be those having under $100 million in assets. 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 eliminate certain prescriptive

[9] 90 FR 9065 (Feb. 6, 2025).

procedural mandates and simplify requirements for coverage amounts and deductibles. The intended effect is greater flexibility for FICUs, simplified compliance, and reduced administrative costs without compromising safety and soundness. While the proposed changes could create an economic benefit for FICUs, they are unlikely to be significant for purposes of the Regulatory Flexibility Act. Accordingly, the NCUA certifies the proposed rule would not have a significant economic impact on a substantial number of small entities.

E. Executive Order 13132 on Federalism

Executive Order 13132 encourages certain regulatory 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 order to adhere to fundamental federalism principles. The proposed rule would apply to all FICUs, including state-chartered credit unions. 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 changes would mainly clarify the existing regulations and guidance in this area, eliminating certain prescriptive provisions but not fundamentally altering the calculation of or provision of insurance or fidelity bond coverage for FICUs. The proposed changes are not intended to affect the division of responsibilities between the NCUA and state regulatory authorities with oversight of federally insured, state-chartered credit unions. The NCUA welcomes comments on ways to eliminate, or at least minimize, any potential impact in this area.

F. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that the proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999. The proposed rule relates to fidelity bond coverage that protects credit unions against losses due to fraud, dishonesty, and theft committed by

credit union employees or volunteers; accordingly, any effect on family well-being is expected to be indirect.

List of Subjects

12 CFR Part 704

Credit unions, Reporting and recordkeeping requirements, Surety bonds.

12 CFR Part 713

Bonds, Credit unions, Insurance.

By the National Credit Union Administration Board, this 13th day of October, 2026.

Melane Conyers-Ausbrooks,
Secretary of the Board.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR parts 704 and 713 as follows:

PART 704 – Corporate Credit Unions

1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, 1789.

2. Amend § 704.18 by:

a. Revising paragraph (b)(2); and

b. Removing the last sentence in paragraph (c)(3).

The revisions read as follows:

§ 704.18 Fidelity bond coverage.

* * * * *

(b) * * *

(2) The board of directors of each corporate credit union, or a duly authorized individual who sits on the corporate credit union's board of directors or supervisory committee or audit committee, must review and approve all applications for purchase or renewal of its fidelity bond coverage. After such review, a non-employee who is either an individual

board member of the corporate credit union or a duly authorized individual who sits on the corporate credit union's supervisory committee or audit committee, must sign the purchase or renewal agreement and all attachments.

(c) * * *

(3) The NCUA Board must approve all bond forms before a corporate credit union may use them. Corporate credit unions may not use any of the following without first receiving approval from the NCUA Board:

(i) any bond form that has been amended since the time the NCUA Board approved the form; or

(ii) any rider, endorsement, renewal, or other document that limits coverage of approved bond forms.

* * * * *

PART 713 – Fidelity Bond and Insurance Coverage for Federally Insured Credit Unions

3. The authority citation for part 713 continues to read as follows:

Authority: 12 U.S.C. 1761a, 1761b, 1766(a), 1766(h), 1789(a)(11).

4. Amend § 713.2 by revising paragraph (b) to read as follows:

§ 713.2 What are the responsibilities of a federally insured credit union's board of directors under this section?

* * * * *

(b) The board of directors of each federally insured credit union, or a duly authorized individual who sits on the federally insured credit union's board of directors or supervisory committee or audit committee, must review and approve all applications for purchase or renewal of its fidelity bond coverage. After such review, a non-employee who is either an individual board member of the federally insured credit union or a duly authorized individual who sits on the federally insured credit union's supervisory

committee or audit committee, must sign the purchase or renewal agreement and all attachments.

5. Amend § 713.4 by:

a. Revising paragraph (c); and

b. Deleting paragraph (d).

The revisions read as follows:

§ 713.4 What bond forms may a federally insured credit union use?

* * * * *

(c) * * *

(1) Any bond form that has been amended or changed since the time the NCUA Board approved the form; or

(2) Any rider, endorsement, renewal, or other document that limits coverage of approved bond forms.

§ 713.5 [Amended]

6. Amend § 713.5 by:

a. removing paragraphs (b) and (c);

b. redesignating paragraphs (d) and (e) as paragraphs (b) and (c).

[FR Doc. 2026-21087 Filed: 10/14/2026 8:45 am; Publication Date: 10/15/2026]