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7535-01-P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision of a Currently Approved Information Collection, Credit Union Service Organizations; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Public Law 104-13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. NCUA previously amended its credit union service organization (CUSO) regulation to increase transparency and address certain safety and soundness concerns. The final rule extends certain requirements of the CUSO regulation to federally insured, state-chartered credit unions and imposes new requirements on federally insured credit unions (FICUs). Under the amended rule, FICUs with an investment in, or loan to, a CUSO must obtain a written agreement with the CUSO addressing accounting, financial statements, audits, reporting, and legal opinions. The rule limits the ability of a “less than adequately capitalized” FICU to recapitalize an insolvent CUSO. All CUSOs are required to annually provide basic profile information to NCUA and the appropriate state supervisory

authority (SSA). CUSOs engaging in certain complex or high-risk activities are also required to report more detailed information, including audited financial statements and customer information.

DATES: Comments will be accepted until [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Joy Lee
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428
Fax No. 703-837-2861
E-mail: OCIOOPRA@ncua.gov

OMB Reviewer: Office of Management and Budget
ATTN: Desk Officer for the National Credit Union Administration
Office of Information and Regulatory Affairs
Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to:

NCUA Contact: Joy Lee
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428
Fax No. 703-837-2861
E-mail: OCIOOPRA@ncua.gov

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is revising the currently approved collection of information, OMB Control Number, 3133-0149, to reflect amendments to 12 CFR part 712. Part 712 implements authority in the Federal Credit Union Act¹ relating to FICU lending or investment activity with a CUSO. The rule addresses NCUA's safety and soundness concerns for activities conducted by CUSOs and imposes certain recordkeeping obligations on FICUs that have investment or lending relationships with, or conduct operations through, CUSOs. Certain reporting obligations are imposed on natural person credit union CUSOs and corporate CUSOs as a result of the rule.

Specifically, under the amended rule, FICUs with an investment in, or loan to, a CUSO must obtain a written agreement with the CUSO (or revise any current agreement the FICU has with a CUSO) to provide that the CUSO will: (1) account for all its transactions in accordance with generally accepted accounting principles (GAAP); (2) prepare quarterly financial statements and obtain an annual financial statement audit of its financial statements by a licensed certified public accountant; (3) provide complete access to the books and records of the CUSO; and (4) annually report directly to NCUA and the appropriate state supervisory authority (SSA) certain financial and other information prescribed by the rule. 12 CFR 712.3(d).

The report (CUSO Registry) must contain basic registration information, including the CUSO's name and address, point of contact, services offered, the names and charter numbers of credit

¹ 12 U.S.C. §§1756, 1757(5)(D), 1757(7)(I), 1766, 1782, 1785, and 1786.

unions investing in, lending to, or receiving services from the CUSO, and investor and subsidiary information. In addition, for any CUSO engaged in complex or high-risk activities, as defined in the rule, the report must contain additional, enhanced, more detailed information, including audited financial statements and more specific customer information. 12 CFR 712.3(d)(4). NCUA plans to implement secure online technology for the CUSOs' direct submission of financial and other reports. Development of the CUSO Registry is underway, which will provide fully electronic reporting by CUSOs.

A FICU and a CUSO must be operated in a manner that demonstrates to the public the separate corporate existence of the FICU and the CUSO. Section 712.4(b) requires that prior to investing in a CUSO, the FICU must obtain a written legal opinion confirming the CUSO is established in a legally sufficient way to limit the FICU's exposure to loss of its loans or investments in the CUSO. 12 CFR 712.4(b).

The amendments also require that a FICU that is, or as a result of recapitalizing an insolvent CUSO, will become less than adequately capitalized must, under certain circumstances, obtain NCUA (or SSA, if applicable) approval to recapitalize a CUSO that has become insolvent. 12 CFR 712.2(d).

NCUA previously requested comments in response to a notice on "Information Collection Activities: Submission to OMB for Revision of a Currently Approved Information Collection, Credit Union Service Organizations" due September 4, 2015. (80 FR 38475, July 6, 2015). NCUA received a few comments in response to this sixty-day notice. Staff carefully reviewed and considered these comments.

In particular, with regard to concern about confidentiality, the rule addresses documents, such as an agreement between a credit union and its CUSO, and legal opinions, which are and would remain credit union property. There is no requirement that the documents be made public. CUSO reports may contain or consist of trade secrets and commercial or financial information which relate to the business, personal, or financial affairs of a person or organization, are furnished to NCUA, and are privileged or confidential. With regard to concern of data security measures, at a minimum NCUA information systems adhere to the National Institute of Standards and Technology (NIST) security controls and guidelines at the moderate level. In addition, with regard to concern about duplication, currently, NCUA collects CUSO related information on the NCUA Form 5300 Call Report and the NCUA Form 4501A Online CU Profile (OMB Control No. 3133-0004). Upon successful implementation of the CUSO Registry, NCUA plans to eliminate the duplicate information collected on the Call Report and Online CU Profile.

In summary, Part 712 contains the following information collection (IC) requirements:

(IC 1.) Obtain Written Agreement. Before making a loan to, or investment in, a CUSO, a FICU must obtain a written agreement from the CUSO (or revise any current agreement the FICU has with a CUSO) that the CUSO will: follow generally accepted accounting principles (GAAP); prepare financial statements at least quarterly and obtain an annual opinion audit from a licensed certified public accountant; provide access to its books and records to NCUA and the appropriate SSA; and file financial and other reports directly with NCUA and the appropriate SSA;

(IC 2.) Obtain Written Legal Opinion. A FICU must obtain a written legal opinion confirming the CUSO is established in a legally sufficient way to limit the credit union's exposure to loss of its loans to, or investments in, the CUSO;

(IC 3.) Obtain Regulatory Approval. Any FICU that is or, as a result of recapitalizing an insolvent CUSO will become, less than adequately capitalized, must seek NCUA approval before recapitalizing an insolvent CUSO; and

(IC 4.) CUSO Reporting. A CUSO with an investment or loan from a FICU must annually submit a report directly to NCUA and the appropriate SSA that contains financial and other information prescribed in the rule. All CUSOs are required to provide basic profile information to NCUA and the appropriate SSA. CUSOs engaging in certain complex or high-risk activities are also required to report more detailed information, including audited financial statements and customer information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

NCUA requests that you send any comments on the information collection requirements for Credit Union Service Organizations, 12 CFR part 712, to the locations listed in the ADDRESSES section. Your comments should address: (a) the necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we

could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Credit Union Service Organizations, 12 CFR part 712.

OMB Number: 3133-0149.

Form Number: None.

Type of Review: Revision to a currently approved collection.

Description: NCUA amended Part 712 to increase transparency and address safety and soundness concerns about activities conducted by CUSOs and imposes certain recordkeeping obligations on FICUs that have investment or lending relationships with, or conduct operations through, CUSOs.² The final rule extends certain requirements of the CUSO regulation to federally insured, state-chartered credit unions and imposes new requirements on FICUs. Under the amended rule, a FICU with an investment in, or loan to, a CUSO must obtain a written agreement with the CUSO addressing accounting, financial statements, audits, reporting, and legal opinions. The rule limits the ability of a "less than adequately capitalized" FICU to recapitalize an insolvent CUSO. All CUSOs are required to annually provide basic profile information to NCUA and the appropriate SSA. CUSOs engaging in certain complex or high-risk activities are also required to report more detailed information, including audited financial statements and customer information. These reporting obligations are imposed on natural person credit union CUSOs and corporate credit union CUSOs as a result of the rule.

² 78 FR 72537 (Dec. 3, 2013).

Respondents: Federally insured credit unions and credit union service organizations.

Estimated No. of Respondents: 4,116.

Frequency of Response: One-time, on occasion, and annual.

Estimated Burden Hours per Response: Varies based on type and frequency of response.

Estimated Total Annual Burden Hours: 11,558.5 hours.

Estimated Total Annual Cost: \$76,177.2

By the National Credit Union Administration on September 22, 2015.

Gerard Poliquin,
Secretary of the Board.

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