
COMPLIANCE

Introduction

During each examination, examiners will review the corporate credit union's (corporate) compliance with regulations promulgated by NCUA and other agencies. Examiners must disclose violation of the laws, statutes, regulations, and sound business practices in the examination report and on OCCU Form 102F, the Document of Resolution.

This chapter outlines references to various Part 704 compliance issues as well as other applicable parts of the NCUA Rules and Regulations. More specific information can be obtained in the applicable chapters, as noted with the specific reference. Where there is no specific chapter for a compliance issue, the items are discussed herein.

Section 704.3 - Corporate Credit Union Capital

See Chapter 204, Capital and Appendix A to Part 704—Model Forms.

Section 704.4 - Board Responsibilities

See Chapter 301, Management.

Section 704.5 - Investments

See Chapter 201, Investments and Appendix B to Part 704- Expanded Authorities and Requirements.

Section 704.6 - Credit Risk Management

See Chapters 201, Investments, and 202 Asset and Liability Management.

Section 704.7 - Lending

See Chapter 203, Loan Review.

Section 704.8 - Asset and Liability Management

See Chapter 202, Asset and Liability Management.

Section 704.9 - Liquidity Management

See Chapter 202, Asset and Liability Management.

704.10—Investment Action Plan

See Chapter 201, Investments.

704.11--Corporate Credit Union Service Organizations (CUSOs)

See Chapter 311, Corporate Credit Union Service Organizations.

704.14—Representation

Each examiner must ensure the board of directors is in compliance with all phases of this section which addresses interlocks, representatives of organizational members, recusal provisions, and administration.

704.15-- Audit Requirements

See Chapter 309, Supervisory Committee/Audit Functions.

704.16 Contracts/Written Agreements

See Chapter 301, Management.

704.18 Fidelity Bond and Insurance Coverage

See Chapter 310, Bond and Insurance Coverage.

704.19-- Wholesale Corporate Credit Unions

Wholesale corporates are subject to all sections of Part 704, except for in this section it is subject to a different determination of earnings retention factor and threshold for notification of the board of directors, supervisory committee, and the OCCU Director.

748 – Security Program, Report of Crime and Catastrophic Act and Bank Secrecy Act

Security Devices

Part 748 establishes minimum security standards and procedures for credit unions. The examiner should determine the corporate has (1) established adequate security programs in accordance with the regulation, and (2) updates the program to reflect operational changes.

Corporate credit union management must provide adequate safeguards to:

1. Protect the credit union from robberies, burglaries, larcenies, and embezzlement;
2. Ensure the security and confidentiality of member records, protect against the anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member;
3. Respond to incidents of unauthorized access to or use of member information that could result in substantial harm or serious inconvenience to a member;
4. Assist in identification of persons who commit or attempt such actions and crimes; and
5. Prevent destruction of vital records (as defined by Part 749 of the NCUA Rules and Regulations).

The corporate's security program must include administrative, technical, and physical safeguards appropriate to the size and complexity of the institution and the nature and scope of its activities. At a minimum, corporate management should design and implement a comprehensive written security program to:

1. Identify key controls, systems, and procedures;
2. Assess internal and external threats;
3. Assign responsibilities;
4. Establish security procedures consistent with operating systems;
5. Provide for periodic training of all employees;
6. Protect against destruction, loss, or damage of information, and develop recovery procedures;
7. Ensure periodic testing of security programs;
8. Re-assess threats and the adequacy of controls;
9. Review monitoring systems and control procedures; and
10. Revise strategies.

Examiners will evaluate management's efforts to identify, assess, measure, mitigate, and monitor risks.

Bank Secrecy Act

Part 748.2 – This section of the NCUA Rules and Regulations ensures that all federally-insured credit unions establish and maintain procedures reasonably designed to assure and monitor compliance with the requirements of Subchapter II of Chapter 53 of Title 31, United States Code, the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act, and the implementing regulations promulgated thereunder by the Department of Treasury, 31 C.F.R Part 103. Refer to Appendix A of this Chapter for guidance on Bank Secrecy Act requirements and examination guidelines.

Office of Foreign Assets Control (OFAC)

OFAC administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. OFAC acts under the President's wartime and national emergency powers, as well as under authority granted by specific legislation, to impose controls on transactions and freeze assets under U.S. jurisdiction. Many of the sanctions are based on United Nations and other international mandates, are multilateral in scope, and involve close cooperation with allied governments.

OFAC requirements are separate and distinct from the BSA, but both OFAC and the BSA share a common national security goal. For this reason, many financial institutions view compliance with OFAC sanctions as related to BSA compliance obligations. Refer to Appendix B for additional information on OFAC compliance requirements.

Other Compliance Considerations

Charter and Bylaws

Examiners will review the corporate's charter and bylaws to determine if the corporate is operating within its limitations.

Operating Fees

Examiners must ensure that each Federal corporate complies with Section 701.6. This section states that each year or as otherwise directed by the NCUA Board, each Federal credit union shall pay to the Administration for the current NCUA fiscal year (January 1 to December 31) an operating fee. This fee will be in accordance with the schedule fixed from time to time by the NCUA Board, based on the total assets of each Federal credit union as of December 31 of the preceding year, or otherwise determined pursuant to paragraph (b) of this section.

Share Insurance

During each examination of a federally insured corporate, examiners must review the National Credit Union Share Insurance Fund (NCUSIF) account for accuracy. Examiners must document errors detected in the examination report along with corrective actions taken.

Examination Objectives

The objectives for reviewing the compliance area are:

1. Determine the corporate's policies, procedures, practices, and internal controls of all aspects of compliance are adequate as defined under regulation and federal and/or state laws;
2. Determine all reports required of corporates are filed accurately and timely;
3. Assess the adequacy of the credit union's BSA/AML compliance program. Determine whether the corporate has developed, administered, and maintained an effective program for compliance with the BSA and all of its implementing regulations.
4. Assess the corporate's risk-based OFAC program to evaluate whether it is appropriate for the institution's risk, taking into consideration its products, services, members, transactions, and geographic locations.
5. Determine the National Credit Union Share Insurance Fund and NCUA operating fees, where applicable, are accurate and paid on time; and
6. Initiate corrective action when the policies, procedures, practices, or controls are deficient or when violations of laws or regulations are noted.

**Examination
Procedures**

See Corporate Examination Procedures - Compliance (OCCU BSA and OFAC Procedures).

**Examination
Questionnaire**

See Corporate Examination Questionnaires - Compliance (OCCU BSA/AML and OFAC Questionnaires).

References

1. NCUA Rules and Regulations, Part 704
2. NCUA Rules and Regulations, Section 701.6
3. NCUA Rules and Regulations, Part 748

4. NCUA Rules and Regulations, Part 749
5. NCUA Website/Reference Information/Letters to Federal Credit Unions and Letters to Federally Insured Credit Unions
6. Chapter 18 (Regulatory Compliance) of the natural person credit union Examiner's Guide
7. Appendix 18A (Bank Secrecy Act) of the natural person credit union Examiner's Guide
8. Corporate Credit Union Guidance Letter No. 2004-02, June 2004, BSA Compliance Guidance
9. Corporate Credit Union Guidance Letter No. 2005-01, February 2005, Bank Secrecy Act (BSA) Compliance
10. FFIEC BSA/AML Examination Manual, July 2006