# Regulatory Comment: Suretyship and Guaranty; Segregated Deposit and Collateral

## THE ISSUE:

On December 29, 2025, the National Credit Union Administration (NCUA) issued a notice of proposed rulemaking regarding a proposed regulation to remove the segregated deposit and collateral requirements when a federally insured credit union (FICU) acts as a surety and guarantor.

## IMPACT TO CREDIT UNIONS:

Removing the segregated deposit and fixed collateral coverage requirements would give credit unions more flexibility to structure suretyship and guaranty products and could reduce transaction friction and compliance steps for members and staff. At the same time, credit unions would need to rely more heavily on their commercial loan policies, underwriting, and ongoing risk management to control exposure, since the rule would no longer require a dedicated deposit or prescribed collateral margins for these arrangements. For some credit unions, that shift could enable new use cases, but it may also lead to closer examiner focus on policy design, documentation, and capital planning for these contingent obligations.

## KEY POINTS:

- This proposed rulemaking would delete paragraphs (c)(3) and (d) of section 701.20 thereby removing the segregated deposit and collateral requirements when a FICU acts as a surety and guarantor.
- Credit unions would instead rely on section 701.20's authorized-loan requirement and section 723.4's commercial lending collateral and underwriting expectations.

## ACTION NEEDED: Deadlines and contacts

Please use the comment link below to respond to America's Credit Unions' survey. This will help shape the discussion and better address your needs in our comment letters.

- Comments due to America's Credit Unions: February 13, 2026 — **Submit here**.
- Comments due to NCUA: February 27, 2026
- Questions? Contact James Akin, Head of Regulatory Advocacy, America's Credit Unions
- Agency contact: Keisha Brooks, Attorney-Advisor, Office of General Counsel, at (703) 518-6540.

## QUESTIONS TO CONSIDER:

1. How often do you use (or decline) suretyship and guaranty agreements, and for what transaction types?
2. What concrete burdens do the segregated deposit and 100/110 percent collateral requirements create (costs, delays, failed deals), and can you quantify them with examples?
3. If those requirements are removed, what controls would you use instead (underwriting, limits, monitoring, pricing/capital), and what guidance would you want from NCUA to support consistent exams?

## BACKGROUND:

Federal credit unions may engage only in activities that federal law expressly authorizes or that fall within their incidental powers. The Federal Credit Union Act grants specific authority for core functions such as lending to members and issuing letters of credit on members' behalf, and it also permits a federal credit union to exercise those additional powers necessary to carry out its statutory mission of promoting thrift among members and providing a source of credit for provident or productive purposes. Consistent with this framework, NCUA's regulation at section 701.20, adopted in 2004, treats suretyship and guaranty agreements for members as a permissible incidental power, thereby allowing a federal credit union to support member transactions through arrangements that may involve a three-party relationship in which the credit union agrees to satisfy an obligation if the member does not.

To address safety and soundness, the regulation requires that the credit union's obligation be limited to a fixed amount and a defined term, that any payment by the credit union results in an authorized loan that complies with applicable lending requirements, and that the credit union obtain and maintain a segregated member deposit sufficient to cover the potential liability. These same requirements also apply to federally insured state credit unions (FISCUs) when state law authorizes them to enter into suretyship and guaranty arrangements. The rule was subsequently updated in 2019 as part of a broader regulatory reform effort intended to reduce burden and improve clarity, including through revisions to internal cross-references.

## SECTION BY SECTION ANALYSIS:

The NCUA Board proposes, as part of its deregulatory initiative, to delete paragraphs (c)(3) and (d) of section 701.20.

*Current Framework*

Federally insured credit unions that act as a surety or guarantor are subject to section 701.20's requirements, including the segregated deposit and collateral provisions in paragraphs (c)(3) and (d). Depending on the collateral type, a federal credit union must have a perfected security interest in collateral equal to 100 percent or 110 percent of the obligation, and section 741.221 applies these same requirements to federally insured state credit unions that have state-law authority to enter into suretyship or guaranty agreements. If the suretyship or guaranty is triggered, the credit union's performance must create an authorized loan that complies with applicable NCUA lending regulations.

- Collateral thresholds
    - 100 percent collateral: cash; obligations of the United States or its agencies; obligations fully guaranteed by the United States or its agencies as to principal and interest; and eligible notes, drafts, bills of exchange, and bankers' acceptances.
    - 110 percent collateral: real estate and marketable securities.

*Proposed Framework*

The Board proposes to remove paragraphs (c)(3) and (d) of section 701.20, eliminating the segregated deposit and the specific 100 percent and 110 percent collateral requirements tied to suretyship and guaranty agreements.

Under the proposal credit unions would instead rely on:

- The existing requirement under section 701.20 that, if the credit union has to perform under the suretyship or guaranty, that performance results in an authorized loan that complies with NCUA lending regulations.

- The collateral and underwriting expectations in section 723.4 of NCUA's commercial lending rules.

Those rules assume credit unions will maintain prudent risk management practices and sufficient capital to address the risks of commercial lending.