

**§713.6**

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(c) While the above is the required minimum amount of bond coverage, credit unions should maintain increased coverage equal to the greater of either of the following amounts within thirty days of discovery of the need for such increase:

(1) The amount of the daily cash fund, i.e. daily cash plus anticipated daily money receipts on the credit union's premises, or

(2) The total amount of the credit union's money in transit in any one shipment.

(3) Increased coverage is not required pursuant to paragraph (c) of this section, however, when the credit union temporarily increased its cash fund because of unusual events which cannot reasonably be expected to recur.

(d) Any aggregate limit of liability provided for in a fidelity bond policy must be at least twice the single loss limit of liability. This requirement does not apply to optional insurance coverage.

(e) Any proposal to reduce your required bond coverage must be approved in writing by the NCUA Board at least twenty days in advance of the proposed effective date of the reduction.

**§713.6 What is the permissible deductible?**

(a)(1) The maximum amount of allowable deductible is computed based on a Federal credit union's asset size, as follows:

Assets	Maximum deductible
\$0-\$100,000 .....	No deductibles allowed.
\$100,001-\$250,000 .....	\$1,000.
\$250,001-\$1,000,000 .....	\$2,000.
Over \$1,000,001 .....	\$2,000 plus 1/1000 of total assets up to a maximum deductible of \$200,000.

(2) The deductibles may apply to one or more insurance clauses in a policy. Any deductibles in excess of the above amounts must receive the prior written permission of the NCUA Board.

(b) A deductible may not exceed 10 percent of a credit union's Regular Reserve unless a separate Contingency Reserve is set up for the excess. In computing the maximum deductible, valuation accounts such as the allowance for loan losses cannot be considered.

**§713.7 May the NCUA Board require a credit union to secure additional insurance coverage?**

The NCUA Board may require additional coverage when the Board determines that a credit union's current coverage is inadequate. The credit union must purchase this additional coverage within 30 days.

**PART 714—LEASING**

Sec.

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AUTHORITY: 12 U.S.C. 1756, 1757, 1766, 1785, 1789.

SOURCE: 65 FR 34585, May 31, 2000, unless otherwise noted.

**§714.1 What does this part cover?**

This part covers the standards and requirements that you, a federal credit union, must follow when engaged in the leasing of personal property.

## National Credit Union Administration

## § 714.5

### § 714.2 What are the permissible leasing arrangements?

(a) You may engage in direct leasing. In direct leasing, you purchase personal property from a vendor, becoming the owner of the property at the request of your member, and then lease the property to that member.

(b) You may engage in indirect leasing. In indirect leasing, a third party leases property to your member and you then purchase that lease from the third party for the purpose of leasing the property to your member. You do not have to purchase the leased property if you comply with the requirements of § 714.3.

(c) You may engage in open-end leasing. In an open-end lease, your member assumes the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end.

(d) You may engage in closed-end leasing. In a closed-end lease, you assume the risk and responsibility for any difference in the estimated residual value and the actual value of the property at lease end. However, your member is always responsible for any excess wear and tear and excess mileage charges as established under the lease.

### § 714.3 Must you own the leased property in an indirect leasing arrangement?

You do not have to own the leased property in an indirect leasing arrangement if:

(a) You obtain a full assignment of the lease. A full assignment is the assignment of all the rights, interests, obligations, and title in a lease to you, that is, you become the owner of the lease;

(b) You are named as the sole lienholder of the leased property;

(c) You receive a security agreement, signed by the leasing company, granting you a sole lien in the leased property and the right to take possession and dispose of the leased property in the event of a default by the lessee, a default in the leasing company's obligations to you, or a material adverse change in the leasing company's financial condition; and

(d) You take all necessary steps to record and perfect your security interest in the leased property. Your state's Commercial Code may treat the automobiles as inventory, and require a filing with the Secretary of State.

### § 714.4 What are the lease requirements?

(a) Your lease must be a net lease. In a net lease, your member assumes all the burdens of ownership including maintenance and repair, licensing and registration, taxes, and insurance;

(b) Your lease must be a full payout lease. In a full payout lease, you must reasonably expect to recoup your entire investment in the leased property, plus the estimated cost of financing, from the lessee's payments and the estimated residual value of the leased property at the expiration of the lease term; and

(c) The amount of the estimated residual value you rely upon to satisfy the full payout lease requirement may not exceed 25% of the original cost of the leased property unless the amount above 25% is guaranteed. Estimated residual value is the projected value of the leased property at lease end. Estimated residual value must be reasonable in light of the nature of the leased property and all circumstances relevant to the leasing arrangement.

### § 714.5 What is required if you rely on an estimated residual value greater than 25% of the original cost of the leased property?

If the amount of the estimated residual value you rely upon to satisfy the full payout lease requirement of § 714.4(b) exceeds 25% of the original cost of the leased property, a financially capable party must guarantee the excess. The guarantor may be the manufacturer. The guarantor may also be an insurance company with an A.M. Best rating of at least a B+, or with at least the equivalent of an A.M. Best B+ rating from another major rating company. You must obtain or have on file financial documentation demonstrating that the guarantor has the resources to meet the guarantee.

## § 714.6

### **§ 714.6 Are you required to retain salvage powers over the leased property?**

You must retain salvage powers over the leased property. Salvage powers protect you from a loss and provide you with the power to take action if there is an unanticipated change in conditions that threatens your financial position by significantly increasing your exposure to risk. Salvage powers allow you:

(a) As the owner and lessor, to take reasonable and appropriate action to salvage or protect the value of the property or your interests arising under the lease; or

(b) As the assignee of a lease, to become the owner and lessor of the leased property pursuant to your contractual rights, or take any reasonable and appropriate action to salvage or protect the value of the property or your interests arising under the lease.

### **§ 714.7 What are the insurance requirements applicable to leasing?**

(a) You must maintain a contingent liability insurance policy with an endorsement for leasing or be named as the co-insured if you do not own the leased property. Contingent liability insurance protects you should you be sued as the owner of the leased property. You must use an insurance company with a nationally recognized industry rating of at least a B+.

(b) Your member must carry the normal liability and property insurance on the leased property. You must be named as an additional insured on the liability insurance policy and as the loss payee on the property insurance policy.

### **§ 714.8 Are the early payment provisions, or interest rate provisions, applicable in leasing arrangements?**

You are not subject to the early payment provisions set forth in § 701.21(c)(6) of this chapter. You are also not subject to the interest rate provisions in § 701.21(c)(7).

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### **§ 714.9 Are indirect leasing arrangements subject to the purchase of eligible obligation limit set forth in § 701.23 of this chapter?**

Your indirect leasing arrangements are not subject to the eligible obligation limit if they satisfy the provisions of § 701.23(b)(3)(iv) that require that you make the final underwriting decision and that the lease contract is assigned to you very soon after it is signed by the member and the dealer or leasing company.

### **§ 714.10 What other laws must you comply with when engaged in leasing?**

You must comply with the Consumer Leasing Act, 15 U.S.C. 1667-67f, and its implementing regulation, Regulation M, 12 CFR part 213. You must comply with state laws on consumer leasing, but only to the extent that the state leasing laws are consistent with the Consumer Leasing Act, 15 U.S.C. 1667e, or provide the member with greater protections or benefits than the Consumer Leasing Act. You are also subject to the lending rules set forth in § 701.21 of this chapter, except as provided in § 714.8 and § 714.9 of this part. The lending rules in § 701.21 address the preemption of other state and federal laws that impact on credit transactions.

## **PART 715—SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS**

Sec.

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