

Supporting Statement for Paperwork Reduction Act Submission
Member Business Loan Policy – 12 CFR part 723
12 CFR part 723.5 – Develop Written Loan Policies,
12 CFR part 723.11 – Waiver Requests, and
12 CFR part 723.16 Application for Approval
OMB Control Number 3133-0101
June 2013

Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

Part 723 of NCUA's regulations implements provisions in the Federal Credit Union Act (Act) for business loans and addresses NCUA's safety and soundness concerns regarding this activity. This reinstatement to OMB Control Number 3133-0101 is submitted to address all of the information collection requirements contained in Part 723.

Part 723 requires that credit unions that engage in business lending maintain written loan policies that address various aspects of the activity, including identification of the types of business loans the credit union will make, qualifications of loan officers, documentation requirements for creditworthiness of borrowers, collateral requirements, loan procedures, interest rates and maturities, and so forth. 12 C.F.R. §723.6. Business lending is recognized as inherently riskier than consumer lending and requires particular expertise. Before promulgation of the member business loan regulation in the 1980s, business loans caused significant losses to the credit unions and the National Credit Union Share Insurance Fund (NCUSIF). Requiring federally-insured credit unions to develop specific business loan policies and procedures protects the safety and soundness of credit unions and the NCUSIF.

Part 723 also permits credit unions to apply for a waiver from certain regulatory requirements. 12 C.F.R. §§723.10 -.11. Specifically, the rule permits waivers from the following requirements or limitations: appraisal requirements, aggregate construction and development loan limits, minimum borrower equity requirements for construction and development loans, loan-to-value ratios, personal liability and guarantee requirements, unsecured lending limits to one borrower, aggregate unsecured lending limits, and outstanding loans to one borrower limits. NCUA needs certain information from a credit union to consider the waiver request and evaluate the risks and impact of the waiver on the credit union and potential effect on the NCUSIF.

Finally, Part 723 permits a credit union to obtain regulatory approval so that it may purchase certain business purpose loans in addition to those which are statutorily limited. 12 C.F.R. §723.16(b)(2). NCUA needs certain information from a credit union to evaluate its request so that NCUA may assess safety and soundness considerations and potential effect on the NCUSIF.

2. Indicate how, and by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

NCUA examiners review credit union policies during regulatory examinations. These reviews allow examiners to determine the appropriateness and risks of the programs they address for both the credit union and the NCUSIF. Written policies enable examiners to determine that the credit union is, in fact, following its own business planning in engaging member business lending. As part of the examination process, this review helps prevent losses to credit unions and the NCUSIF.

For waiver requests, the information in the requests permits NCUA staff to make a reasonable determination of the appropriateness of the requests. The requestor tailors their submission to provide necessary information not duplicated elsewhere.

For the loan approval requests, the information in the requests permits NCUA staff to determine the appropriateness and risks of the loan purchases the credit union proposes for both the credit union and the NCUSIF. The requestor tailors their submission to provide necessary information not duplicated elsewhere.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The collection of information does not involve the use of automated, electronic, mechanical or other technological collection techniques.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

The information collection is unique to each credit union and is not duplicated in other collection requirements.

5. If the collection of information impacts small business or other small entities (Item 5 of OMB Form 83-1), describe any methods used to minimize burden.

Few small credit unions are engaged in business lending and of those, even fewer are in a position to make a request under §723.16(b)(2). Small credit unions that are engaged in business lending, generally, have particular expertise for a narrow area of lending, for example, taxi medallion lending; small credit unions are able to tailor their policies and procedures to the lending in which they engage. The waiver provision also provides a way for small credit unions to get permission to be exempt from particular provisions.

6. Describe the consequences to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Generally, credit unions will only have to meet the basic requirement once, namely, create their initial policies and procedures. An annual review is also required since lending policies change and NCUA examiners must keep apprised of the credit unions' current business loan policy. Waiver requests and the loan approval requests will generally be one-time requests but credit unions will likely submit their requests depending on their needs and as plans change.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR §1320.5(d)(2).

There are no special circumstances.

8. Describe efforts to consult with persons outside the agency.

These information collection requirements are contained in Part 723 and the promulgation of this regulation and any amendments were made in accordance with the Administrative Procedure Act. Notice of the proposed information collection was published with a 60-day comment period in the Federal Register on July 19, 2013 (78 FR 43238). NCUA did not receive any comments regarding the collection.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no decision to provide any payment or gift to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Not Applicable.

11. Provide any addition justification for a question of a sensitive nature.

There are no questions of a sensitive nature.

12. Burden Estimates.

Data, available as of March 2013, indicate that approximately 1,116 credit unions are making business loans. This number has not changed significantly from the data available for June 2013. Data also indicates that, of those credit unions reporting member business loans, about 52 percent were actively making business loans in 2012. NCUA concludes that the number of credit unions making business loans has increased but, for those credit unions that have business lending policies in place, many of those credit unions are not actively engaged in making business loans. While initial preparation of lending policies may require 40 or more hours, annual review and update time would be negligible, assuming the credit union's business lending program remains relatively the same. Thus, the "useful life" may be perpetual depending on the nature of the credit union's lending, however, it is determined conservatively to be 10 years. That is, NCUA concludes that over a ten-year period a respondent credit union may need to fully reconsider and revise its lending policies. Thus, NCUA estimates the total number of respondents as 1,116, an initial compliance burden of 40 hours, a useful life of ten years, resulting in an annual hour burden of 4 per respondent for a total of 4,464 hours. NCUA has determined that the estimate of cost burden is \$32 per hour based on an estimate of the hourly rate of staff involved in preparing and revising lending policies. This will result in an annualized cost to respondents for the hour burdens of $\$32 \times 4,464$ (the total annual burden hours $4 \times 1,116$ respondents) = \$142,848.

IC1 - Develop Written Loan Policies

- Respondents: 1,116
- Hour burden per respondent: 4
- Cost burden per hour: \$32
- Total burden hours: 4,464
- Total cost: \$142,848

Data also indicates credit unions submitted 295 waiver requests to NCUA during 2012. The agency estimates that these, one-time, waiver requests generally require an average of 17 hours to prepare, resulting in an annual hour burden of 5,015. NCUA has determined that the estimate of cost burden is \$32 per hour based on an estimate of the hourly rate of staff involved in gathering information

and preparing waiver requests. This will result in an estimated annualized hour burden cost to respondents of \$160,480 ($\$32 \times 17 \times 295 = \$160,480$).

IC2 – Waiver Requests

- Respondents: 295
- Hour burden per respondent: 17
- Cost burden per hour: \$32
- Total burden hours: 5,015
- Total cost: \$160,480

NCUA estimates that loan purchase approval requests, submitted on occasion, require an average hour burden of 5 hours. Credit unions submitting such waiver or loan requests are experienced business lenders. Much of the request package will consist of information developed in the course of the credit union's customary and usual business practices. Currently a small percentage of credit unions engaged in business lending have an amount of business loans large enough to request authorization under §723.16(b)(2). Data indicates credit unions submitted 13 respondents during 2012. NCUA estimates a compliance burden of 5 hours, a useful life of five years, resulting in an annual hour burden of 1 per respondent for a total of 13 hours. NCUA estimates the cost burden is \$32 per hour based on an estimate of the hourly rate of staff involved in preparing loan approval requests under §723.16(b)(2) for an annualized hour burden cost of \$416.

IC3 – Loan Purchase Approval Requests

- Respondents: 13
- Hour burden per respondent: 1
- Cost burden per hour: \$32
- Total burden hours: 13
- Total cost: \$416

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information.

NCUA estimates the annual cost burden to be negligible. Credit unions participating in business loans generate the collection of information in their normal course of business.

14. Provide estimates of annualized cost to the federal government.

Not Applicable. Written policies are reviewed as a routine part of credit union examination.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

This is a reinstatement of a previously approved collection. NCUA has modified the burden estimates to reflect the decline in the number of federally-insured credit unions since the previous filing.

16. For collections of information whose results will be published, outline plans for tabulation, and any publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

There are no plans to publish results.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

We are not seeking to not display the expiration date.