

SUPPORTING STATEMENT
for the Paperwork Reduction Act Information Collection Submission for
12 CFR Part 723 – Member Business Loans; Commercial Lending
OMB No. 3133-0101

A. JUSTIFICATION

1. Necessity of Information Collection

As part of NCUA’s Regulatory Modernization Initiative, the NCUA Board (Board) proposes to amend its member business loan (MBL) rule (Part 723) to provide federally insured credit unions with greater flexibility and individual autonomy in safely and soundly providing commercial and business loans to serve their members. This proposed revision to OMB Control Number 3133-0101, Member Business Loans, addresses all of the information collection requirements contained in Part 723.

To modernize the MBL rule and provide reasonable regulatory relief to federally insured credit unions (FICUs), the NCUA Board is proposing to alter its overall approach to regulating commercial lending, by shifting from a prescriptive rule to a principles-based rule. Specifically, the proposed rule eliminates detailed collateral criteria and portfolio limits and instead focuses on broad yet well-defined principles that clarify regulatory expectations for FICUs engaged in commercial lending activities. The proposed approach will eliminate some unintended consequences of the prescriptive approach, such as causing credit unions to manage their lending practices to regulatory restrictions instead of focusing on sound risk management practices. The uniform regulatory prescriptions also inhibit credit unions from considering all relevant risk-mitigating factors in certain borrowing relationships. Under the proposed approach, NCUA supervision will focus on the effectiveness of the credit union’s risk management process, which will allow credit unions greater autonomy and flexibility to soundly administer, underwrite, and service commercial loans in a manner that is consistent with regulatory objectives and accepted risk management practices

The proposed rule exempts from the requirements of §723.3 (Board of directors and management responsibilities) and §723.4 (Commercial loan policy) credit unions with both assets less than \$250 million and total commercial loans less than 15 percent of net worth that are not regularly originating and selling or participating out commercial loans (qualifying credit unions). Accordingly, qualifying credit unions which are only occasionally granting a loan(s) that meets the proposed commercial loan definition would be alleviated from the burden of having to develop a full commercial loan policy and commercial lending organizational infrastructure.

2. Purpose and Use of the Information Collection

Under the proposed rule, credit unions that are engaged in commercial lending and not exempted from §723.3 and §723.4 may need to revise their commercial loan policies to address various aspects of the commercial lending activity. The commercial loan policy

should include identification of the types of business loans the credit union will make, qualifications and experience of personnel, portfolio concentration limits, underwriting standard, loan approval, and other risk management processes. Requiring federally-insured credit unions to maintain commercial loan policies and procedures protects the safety and soundness of credit unions and the National Credit Union Share Insurance Fund (NCUSIF).

The proposed rule also requires these credit unions to implement a formal credit risk rating system to identify and quantify the level of risk within their commercial loan portfolio. A credit risk rating system is a standard industry practice utilized by commercial lenders, a longstanding NCUA supervisory expectation, and required by other regulators to monitor and quantify risk. As part of the examination process, the review of risk rating process helps prevent losses to credit unions and the NCUSIF.

3. Consideration Given to Information Technology

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

4. Duplication

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

5. Effect on Small Entities

The proposed rule alleviates qualifying credit unions which are only occasionally granting a commercial loan(s) from the requirements of §723.3 and §723.4. Small credit unions that do not qualify for the exemption may need to modify their commercial loan policies and enhance their processes to satisfy the new requirements. It is essential for these small credit unions that regularly conduct commercial lending activities to develop and maintain appropriate loan policy/processes to ensure the safety and soundness of the institutions.

6. Consequences of Not Conducting Collection

Commercial lending is complex and involves different risks than consumer lending. Credit unions that are lack of appropriate commercial risk management policies and processes may lead to their failures and in some cases, losses to the National Credit Union Share Insurance Fund.

7. Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

There are no special circumstances. This collection is consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultations Outside the Agency

A notice of proposed rulemaking (NPRM) was published July 1, 2015, at 80 FR 37898, soliciting comments under this NPRM and related information collection requirements. A subsequent information collection submission will be made addressing the final rule.

9. Payment or Gift

There is no intent by NCUA to provide payment or gifts for information collected.

10. Confidentiality

Credit union examination reports and any documents related thereto are exempt from the Freedom of Information Act disclosure, pursuant to exemption 8, 5 U.S.C. 552(b)(8).

11. Sensitive Questions

No questions of a sensitive nature are asked. The information collection does not collect any Personally Identifiable Information (PII).

12. Burden of Information Collection

a. Revising commercial loan policies and procedures.

Under the proposed rule, credit unions that are engaged in business lending activities and not exempted from §723.3 and §723.4 may need to revise their loan policies and procedures. At the end of 2014, there were a total of 1,553 FICUs that may need to revise their policies. For purposes of this analysis, NCUA estimates that it will take roughly 16 hours for a credit union to meet this requirement. Using these estimates, information collection obligations imposed by this aspect of the rule are analyzed below.

b. Developing formal risk rating system.

The proposed rule also requires credit unions that are engaged in business lending activities and not exempted from §723.3 and §723.4 to develop a formal risk rating system to quantify and manage risks associated with their business lending activities. The majority of credit unions already have risk rating systems in place. Based on a survey of NCUA field staff, NCUA estimates that a total of 142 FICUs do not currently have a formal risk rating system. The information collection obligations imposed by this aspect of the rule are analyzed below.

	No. Respondent	No. Responses Per Respondent	Hours Per Response	Total Burden Hours	Cost to Respondent (based on \$33.00 hourly wage)
Revising commercial loan policies and procedures	1,553	1	16	24,848	\$819,984.00
Developing a risk rating system	142	1	160	22,720	\$479,760.00
Totals	0			0	0

13. Costs to Respondents

There are no capital, start-up or operating and maintenance costs.

14. Costs to Federal Government

The estimated total one-time incremental cost for NCUA would be \$813,280 in 2016 for staff training. There would be an additional one-time opportunity cost of approximately \$1,112,480 for additional training associated with this rule.

15. Changes in Burden

Adjustments are attributed to the removal of the burden hours associated with usual and customary business practices.

Program changes are attributed to credit unions that are engaged in business lending activities and not exempted from §723.3 and §723.4 that may need to revise their loan policies and procedures. The proposed rule also relieves credit unions from the current requirement to obtain MBL related waivers.

Total burden requested is 47,568 hours.

16. Information Collection Planned for Statistical Purposes

Not applicable. The information collection is not used for statistical purposes.

17. Approval to Omit OMB Expiration Date

NCUA is not seeking approval to omit the expiration date.

18. Exceptions to Certification for Paperwork Reduction Act Submissions

This collection complies with the requirements in 5 CFR 1320.9.