

**SUPPORTING STATEMENT**  
**for the Paperwork Reduction Act Information Collection Submission for**  
**Investment and Deposit Activities**  
**OMB No. 3133-0133**

**A. JUSTIFICATION**

**1. Necessity of Information Collection**

Subpart A

The Federal Credit Union Act (Act) provides FCUs with the authority to invest in certain securities, obligations, and accounts (12 U.S.C. 1757(7) and (15)). The National Credit Union Administration (NCUA) Board has regulations in place to enforce Sections 107(7), 107(8), and 107(15) of the Federal Credit Union Act, 12 U.S.C. 1757(7), 1757(8), 1757(15), which list those securities, deposits, and other obligations in which a Federal Credit Union (FCU) may invest. The regulations related to these areas are contained in Part 703 and Section 721.3 (Incidental Powers) of NCUA's Rules and Regulations.

Part 703 contains multiple recordkeeping and reporting information collections related to the investment and deposit activities in which federal credit unions can participate.

Specifically, the recordkeeping collections under Part 703, Subpart A and 721.3 include:

- Establishing a written investment policy
- Reviewing the written investment policy annually
- Maintaining documentation for each investment transaction for as long as the investment is outstanding
- Analyzing the background of investment advisers, broker-dealers, and safekeepers and maintain board approval
- Obtaining monthly reports from investment advisers, broker-dealers, and safekeepers
- Maintaining written safekeeping agreements, lending agreements and confirmations for securities lending transactions, and signed contracts for investment repurchase transactions
- Obtaining price quotes on securities prior to purchase
- Reviewing the fair value of each security monthly
- Documenting credit analysis on certain investments
- Updating credit analysis on certain investments annually
- Developing written agreements and policies for a charitable donation account
- Reviewing the charitable donation account policy annually

The reporting requirements of Part 703, Subpart A include:

- Notifying the Regional Director if investments under discretionary control exceed 100 percent of net worth
- Notifying the Regional Director of non-permissible investments held in the credit union's portfolio

- Preparing quarterly reports on certain shares and deposits
- Preparing monthly reports on all trading securities and European financial option contracts
- Submitting a written request to the Regional Director to participate in the investment pilot program
- Submitting a written request to the Regional Director to request additional investment authority
- Appealing to the NCUA Board a Regional Director's decision related to additional investment authority

### Subpart B

In January 2014, the NCUA Board approved a new regulation permitting federal credit unions (FCUs) to engage in limited derivatives activities for the purpose of mitigating interest rate risk (Final Rule, Derivatives Authority, 79 FR 5228, January 31, 2014). The Rule is codified at 12 CFR Part 703 Subpart B (sections 703.100 – 703.114 and an Appendix)

Before the Rule was issued in January 2014, derivatives (with certain exceptions) were among the investments specifically prohibited by NCUA (12 CFR. 703.16(a) (2014)). The Rule applies only to FCUs, except for one provision that requires any federally insured, state-chartered credit union (FISCU) to notify NCUA before it begins engaging in derivatives transactions (12 CFR 741.219(b)).

The Rule addresses permissible derivatives and characteristics, limits on derivatives, operational requirements, counterparty and margining requirements, and the procedures a credit union must follow to request derivatives authority. The following information collections are required under the Rule:

- Submit written application to NCUA to engage in derivatives activity
- Develop and maintain written derivatives policies and procedures
- Review the written policies and procedures annually
- Provide quarterly derivatives report to the credit union's board of directors
- Provide monthly derivatives report to the credit union's senior executive officers
- Retain evidence of derivatives training
- Develop and maintain a written and schematic description of the derivatives decision process
- Review the written and schematic description of the derivatives decision process annually
- Conduct and retain pre-execution analysis
- Submit a corrective action plan, under certain conditions
- Submit advance notification to NCUA for FISCUs that are engaging in derivatives activity

**2. Purpose and Use of the Information Collection**

NCUA uses this information to ensure compliance under 12 U.S.C. 1757a of the Federal Credit Union and NCUA's Rules and Regulations. Additionally, the information is used to limit and monitor the level of risk that exists within a credit union, the actions taken by the credit union to mitigate such risk, and helps prevent losses to FCUs and the National Credit Union Share Insurance Fund (NCUSIF).

Credit unions use this information to engage in a sound investment program. Credit unions use the information to engage in a sound derivatives program as a tool to mitigate interest rate risk and to evidence compliance with the Rule and safety and soundness requirements.

**3. Consideration Given to Information Technology**

Credit unions may submit and retain the information collections in a number of ways, including electronically.

**4. Duplication**

The Rule requires credit unions engaging in derivatives activities to obtain an annual financial statement audit performed by a certified public accountant. Section 715.5(a) of NCUA's Regulations already requires FCUs with assets of \$500 million or greater to obtain an annual financial statement audit. 12 C.F.R. 715.5(a). However, FCUs that already obtain an annual financial statement audit under section 715.5(a) may use that audit to satisfy the requirement of the Rule, thereby eliminating duplication. Otherwise, the information collections are unique to each credit union and are not duplicated elsewhere.

**5. Effect on Small Entities**

The type of policies will vary depending on the complexity of the credit union's investment program. Therefore, small entities with simple and low-risk investment programs can develop and maintain basic investment policies. Most collections are required only if the credit union elects to invest in higher-risk investment activities. NCUA estimates that very few small credit unions purchase the types of investments that are subject to the increased monitoring and reporting requirements.

While small credit unions may request to apply for derivative authority, NCUA anticipates that the majority of credit unions engaging in derivatives activity will have over \$250 million in assets.

**6. Consequences of Not Conducting Collection**

Investment markets change rapidly and FCUs without adequate information cannot take advantage of market movements. The monthly report of investments, trading activity, monthly review of the fair value of each security, and the quarterly report of shares and deposits at banks, other financial institutions, and credit unions are

vital tools to provide necessary information to the FCU upon which they may base decisions. Any less frequently, and the information would be outdated and useless.

The requirement to conduct annual due diligence on broker-dealers and safekeepers and to obtain at least two price quotes on securities prior to purchase or sale is for the protection of the FCU. If the FCU does not get this information, there is no assurance that the parties they are doing business with are acceptable or that a price quoted is realistic.

The collection of information described in the regulations are necessary to prevent losses to FCUs and the NCUSIF.

The information provided in an FCU's application to engage in derivatives activity is necessary to assist NCUA in determining if the FCU is capable of developing and implementing a sound derivatives program. The additional reporting and recordkeeping requirements are used to monitor and assess an FCU's derivatives program. Failure to collect this information would result in inconsistent determinations of individual derivative programs and lead to an FCU engaging in an activity that is excessively risky in relation to that FCU's financial and operational condition.

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

FCUs are required to retain investment purchase information for each investment transaction for as long as it holds the investment and until the documentation has been audited in accordance with §715.4 and examined by NCUA.

**8. Consultations Outside the Agency**

A 60-day notice was published in the *Federal Register* (FRN) on March 30, 2016, at 81 FR 17740, soliciting comments on this collection of information. NCUA received one comment in response to the 60-day FRN for OMB collection #3133-0133. The comment addressed a proposed rule that would clarify asset securitization as a preapproved activity under incidental powers. The commenter is in support of the Agency's efforts to amend its regulations to provide this flexibility to credit unions. The commenter also requested that NCUA permit credit unions to purchase mortgage servicing rights (MSRs) or at a minimum, provide guidance for credit unions to purchase MSRs under the investment pilot program (§703.19). Changes to the MSR activity and asset securitization are outside of the scope of the PRA and would require rulemaking action. NCUA will take the request for additional guidance under consideration in future rulemaking initiatives.

**9. Payment or Gift**

No payment or gift is given in conjunction with this collection.

**10. Confidentiality**

Certain information obtained as part of NCUA’s supervisory process is confidential and exempt from release under Exemptions 4 and 8 of the Freedom of Information Act.

**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 summary of the hour and cost burden of the information collections associated with subpart A and B of Part 703 are shown below. A detailed burden table identifying each information collection activity and the cost to respondent is attached.

	No. Respondents	No. Annual Responses	Total Burden	Total Cost Burden on Respondents*
Subpart A	3,856	369,159	204,816	\$6,531,582.24
Subpart B	43	1,022	7119	\$227,008.97
TOTAL	0	0	0	\$6,758,591.21

\* The average hourly rate for credit union staff is \$31.89, based on call report data.

**13. Costs to Respondents**

Subpart B

NCUA anticipates the six FCUs that are not already required to obtain an annual financial statement audit will be required to do so because of this rule. The estimated cost of an annual financial statement audit is \$50,000 for each of these six FCUs. This results in a total estimated annual cost of \$300,000.

**14. Costs to Federal Government**

Most items are reviewed by an NCUA examiner as part of the normal examination process. However, the following additional costs are incurred by the government:

Subpart A – NCUA related costs to review the credit union’s written request to participate in the investment pilot program, review the credit union’s written request for additional investment authority, and respond to the credit union’s appeal of a Regional Director’s decision related to additional investment authority. The estimated cost is outlined below.

- Review credit unions request to participate in the investment pilot program. NCUA estimates that it will take NCUA staff 8 hours, on average, to review and respond to a credit union’s request to participate in the investment pilot program. At a rate of

\$49 per hours (average hourly wage for a CU-13 per the NCUA pay schedule assuming locality pay for “all other” locales.), the estimated cost for NCUA to review these requests is \$392.00.

- Review credit union’s request for additional investment authority. NCUA estimates that it will take NCUA staff 16 hours, on average, to review and respond to a credit union’s request for additional investment authority. At a rate of \$49 per hours (average hourly wage for a CU-13 per the NCUA pay schedule assuming locality pay for “all other” locales.), the estimated cost for NCUA to review these requests is \$7,840.00.
- Respond to the credit union’s appeal of a Regional Director’s decision related to additional investment authority. NCUA estimates that it will take NCUA staff 16 hours, on average to respond to a credit union’s appeal. At a rate of \$49 per hours (average hourly wage for a CU-13 per the NCUA pay schedule assuming locality pay for “all other” locales.), the estimated cost for NCUA to review these requests is \$784.00.

The total aggregate cost to NCUA for Subpart A is \$9,016.00

Subpart B –NCUA costs to review the applications to engage in derivatives activity.

- For FCUs, NCUA estimates that staff will spend 96 hours to review and make an approval decision for each request. For all 43 requests, this results in a total of 4,128 hours. At a rate of \$66 per hour (average hourly wage for a CU-15 per the NCUA pay schedule assuming locality pay for “all other” locales.), the estimated total cost for NCUA to review requests is \$272,448.
- For FISCUs, NCUA estimates staff will spend one hour to review and retain the one-time FISCU notice to NCUA. For all 30 estimated notifications, this results in a total of 30 hours. At a rate of \$66 per hour (average hourly wage for a CU-15), the estimated cost is \$1,980.

The total aggregate estimated cost to NCUA for Subpart B is \$274,428.

The combined total cost to NCUA for Subpart A and B is \$283,444.

## **15. Changes in Burden**

The number of respondents have decreased (Subpart A) due to an adjustment in the number of FCUs, decreasing the total burden and increases in the number of responses are attributed to adjustments to reflect actual program activity. Program changes are attributed to new information collection requires prescribed by Subpart B.

## **16. Information Collection Planned for Statistical Purposes**

The information collection is not used for statistical purposes.

**17. Approval to Omit OMB Expiration Date**

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government's electronic PRA docket at [www.reginfo.gov](http://www.reginfo.gov).

**18. Exceptions to Certification for Paperwork Reduction Act Submissions**

This collection complies with the requirements in 5 CFR 1320.9.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

This collection does not involve statistical methods.