

SUPPORTING STATEMENT
Paperwork Reduction Act Information Collection Submission
Borrowed Funds from Natural Persons, 12 CFR 701.38
3133-0039

A. JUSTIFICATION

1. Necessity of Information Collection

NCUA Regulation §701.38 grants federal credit unions the authority to borrow funds from a natural person as long as the following conditions are met:

- The credit union maintains a signed promissory note which includes the terms and conditions of maturity, repayment, interest rate, method of computation and method of payment
- The promissory note and any advertisements for borrowing have clearly visible language stating that:
 - a. The note represents money borrowed by the credit union, and
 - b. The note does *not* represent shares and is *not* insured by the National Credit Union Insurance Fund (NCUSIF).

The main purpose of a promissory note is to serve as written evidence of the agreement made and entered into by both parties. This rule requires written evidence to protect the federal credit union and the natural person from possible misunderstandings and potential lawsuits.

2. Purpose and Use of the Information Collection

NCUA will use this information to ensure a credit union's natural person borrowings are in compliance and address all regulatory and safety and soundness requirements.

3. Consideration Given to Information Technology

Credit unions have the ability to submit and retain the information a number of ways including electronically. Credit unions can automate interest computation, payment calculations, maturity determinations and accounting entries to ensure payments are made timely and accurately.

4. Duplication

There is no evidence of duplication. A promissory note for funds borrowed from natural persons is not required in any other regulation.

5. Effect on Small Entities

The regulation requires the same information collection from small entities as from other entities.

6. Consequences of Not Conducting Collection

The collection serves to protect the federal credit union and natural persons. Improper disclosures or lack of a contractual agreement could lead to misunderstanding and potential legal action concerning the terms of repayment.

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

Notice and request for comments was published in the federal register on April 11, 2016 (81 FR 21404). No public comments were received in response to this solicitation.

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.

12. Burden of Information Collection

Burden Estimates

	<i>Estimated number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average time per response</i>	<i>Estimated annual burden hours</i>
Recordkeeping:				
Drafting promissory note for borrowing funds from a natural person – Section 701.38	187	1	4 hours	748
Sub-total Recordkeeping				748
Disclosures:				
Prepare disclosure for note and any applicable advertisements – Section 701.38	187	1	1 hour	187
Sub-total Disclosures				187
Reporting:				
Sub-total Reporting				0
Total Estimated Burden				935

Section-by-section analysis

Drafting the promissory note. Section 701.38 permits federal credit unions to borrow funds from natural persons provided they document the borrowing with a signed promissory note. The promissory note must set forth the terms and conditions of the borrowing regarding maturity, prepayment, interest rate, method of computation, and method of payment. The total number of responses was determined using call report data for federal credit unions that reported liabilities that could include funds borrowed from natural persons. It is estimated that drafting the promissory note will take 187 respondents on average 4 hours to complete for an estimated total annual burden of **748** hours.

Disclosure notice on note and in advertisements. Section 701.38 requires certain disclosures be included on the promissory note and in any advertisements, if advertisements are used. NCUA estimates the time burden for all disclosures to be on average 1 hour per response. The estimated burden for 187 responses is **187** hours.

Cost of burden in dollars

NCUA estimates the average wage rate at credit unions to be approximately \$32¹ per hour. The resulting burden cost is calculated as follows:

Recordkeeping, Disclosure, and Reporting requirements for Compliance

Recordkeeping requirements	748 x \$32 =	\$ 41,744
Disclosure requirements	187 x \$32 =	\$ 5,963
	Total:	\$ 29,920

13. Costs to Respondents

All equipment needed to prepare, manage, and disclose information contained in promissory notes is equipment used for the customary and usual business of the credit union. There is no special or additional equipment; therefore, there is no additional cost.

14. Costs to Federal Government

None.

15. Changes in Burden

This is a reinstatement of a previously approved collection.

16. Information Collection Planned for Statistical Purposes

The information collection is not used for statistical purposes.

¹ Hourly rate for credit union employee is based on an average of total compensation divided by total number of full-time credit union employees as provided on the 5300 call report.

17. Display of OMB Expiration Date

NCUA is not seeking approval to omit the expiration date.

18. Exceptions to Certification

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.