

National Credit Union Administration  
**SUPPORTING STATEMENT**

Loans to Members and Lines of Credit to Members  
12 CFR 701.21 and Appendix B to 12 CFR 741

**OMB No. 3133-0092**

Summary of Regulatory Actions:

The NCUA is proposing to amend its regulations by removing the prohibition on the capitalization of interest in connection with loan workouts and modifications. The Board has determined that the current prohibition on authorizing additional advances to finance unpaid interest may be overly burdensome and, in some cases, hamper a federally insured credit union's (FICU's) good faith efforts to engage in loan workouts with borrowers facing difficulty because of the economic disruption that the COVID-19 pandemic has caused. Advancing interest may avert the need for alternative actions that would be more harmful to borrowers. The proposed rule would establish documentation requirements to help ensure that the addition of unpaid interest to the principal balance of a mortgage loan does not hinder the borrower's ability to become current on the loan. The proposed change would apply to workouts of all types of member loans, including commercial and business loans.

**A. JUSTIFICATION**

**1. Circumstances that make the collection of information necessary.**

Section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) authorizes Federal Credit Unions to make loans to members and issue lines of credit (including credit cards) to members. NCUA's rules and regulations §701.21 governs the requirements related to loans to members and lines of credit to members for federal credit unions. Additionally, Part 741 of NCUA's rules and regulations established requirements for all federally insured credit unions (both Federal and state charters) related to loans to members and lines of credit union members, including:

**2. Purpose and use of the information collection.**

The information collection requirements of §701.21 include various recordkeeping requirements to retain and maintain: credit application for each borrower; written overdraft policy; an attorney's opinion if the credit union uses mortgage loan application forms that are not one of the approved forms; an attorney's opinion if the credit union uses a security instrument and note for mortgage loans that are not one of the approved forms; title for a perfected lien on a first security interest, and written policies for financial option contracts. Appendix B to 12 CFR part 741 requires Federal credit unions to retain and maintain enhanced reporting for loan workout activity that exceeds the thresholds established in the written policy.

Reporting requirements include: monthly reporting to NCUA related to financial option contracts and requests to wave this monthly reporting and waiver of third party servicer limits.

NCUA reviews the information collections to ensure compliance with applicable regulations and laws, and to assess the safety and soundness of the credit union's lending program.

**3. Use of information technology.**

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

**4. Duplication of information.**

Federal credit unions are required to have written loan policies under §701.21(c)(2). All federally insured credit unions must have written loan policies to determine whether the credit union's operations are safe and sound, per §741.3(b)(2). The credit union can use the same written policies to comply with both sections of the regulation.

**5. Efforts to reduce burden on small entities.**

The information required cannot be different for smaller institutions, thus the burden to small credit unions is no greater than for any other institution. However, most of these requirements do not have a significant effect on small entities, as these institutions are less likely to engage in more complex lending activities. Most small entities will only be subject to the information collections requiring them to maintain written loan policies and credit applications.

**6. Consequences of not conducting the collection.**

The collection of these items serve to protect the federal credit union from risk exposure and promotes a safe and sound credit union system. Failure to comply could lead to excessive credit, transaction, and compliance risk if loan applications, attorney opinions, titles and financial option contracts are not maintained and reviewed.

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

The reports described in § 701.21(i)(3) (financial options contracts) for each month must be submitted to the appropriate NCUA Regional Office by the end of the following month. This monthly reporting requirement may be waived by the appropriate NCUA Regional Director on a case-by-case basis for those Federal credit unions with a proven record of responsible use of permitted financial options contracts.

**8. Efforts to consult with persons outside the agency.**

A Paperwork Reduction Act (PRA) notice was published in the preamble of the proposed rulemaking on December 4, 2020, at 85 FR 78269, providing an opportunity for the public to comment on the information collection requirements prescribed by this rule. Comments will be summarized and addressed in the PRA submission associated with the final rulemaking.

**9. Payment or gifts to respondents.**

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

**10. Assurance of confidentiality.**

There is no assurance of confidentiality other than that provided by law.

**11. Questions of a sensitive nature.**

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

**12. Burden of information collection.**

	CFR Citation	Information Collection	Type of Burden	# Respondents	# Responses per Respondent	# Annual Responses	Hours per Response	Total Est. Burden	Previously Approved	Difference
1	701.21 (c)(2)	Retain and maintain a written loan and line of credit policies	Recordkeeping	5,236	1	5,236	1	5,236	5,236	0
2	701.21 (c)(3)	Retain a credit application for each loan	Recordkeeping	5,236	1	5,236	1	5,236	5,236	0
3	701.21 (c)(3)	Retain and maintain a written overdraft policy	Recordkeeping	5,236	1	5,236	1	5,236	5,236	0
4	701.21 (c)(8) (iii)(C)	Retain and maintain written policies in connection with employee incentives and bonuses for loans	Recordkeeping	50	1	50	1	50	50	0
5	701.21 (g)(3)	Obtain an attorney's opinion for long-term real estate loans (applications)	Recordkeeping	500	1	500	1	500	500	0
6	701.21 (g)(4)	Obtain an attorney's opinion for long-term real estate loans (notes)	Recordkeeping	500	1	500	1	500	500	0
7	701.21 (g)(5)	Retain title documentation showing a perfected lien	Recordkeeping	2,400	1	2,400	1	2,400	2,400	0
8	701.21 (i)(2) (iii)	Retain and maintain written policies to engage in financial options contracts	Recordkeeping	50	1	50	1	50	50	0
9	Appx B to 741	Retain and maintain enhanced reporting for loan workout activity that exceeds thresholds established in the policy	Recordkeeping	1,000	4	4,000	1	4,000	2,000	2,000
10	701.21 (h)(2)	Submit request to NCUA for waiver of third-party servicer limits	Reporting	25	1	25	3	75	75	0
11	701.21 (i)(3)(i)	Submit financial options contract report to the regional office on a monthly basis	Reporting	25	12	300	1	300	300	0
12		Submit request to NCUA to waive the monthly reporting requirements	Reporting	1	1	1	1	1	1	0
<b>TOTAL</b>				5,236	4.494652	23,534	1.002125	<b>23,584</b>	21,584	2,000
									23,584	

Based on the labor rate of \$35 per hour, the total cost to respondents is \$825,440.

**13. Capital start-up and on-going operation and maintenance cost.**

There are no capital start-up or maintenance costs.

**14. Annualized costs to federal government.**

The recordkeeping requirements will be reviewed as part of the exam process and result in no additional cost to NCUA. The cost to NCUA of the reporting information collection is detailed below.

- NCUA estimates that it will take NCUA staff 4 hours, on average, to review and respond to a credit union's waive request. At a rate of \$85 per hour, the estimated cost for NCUA to review these requests is \$8,840.
- NCUA estimates that it will take NCUA staff 2 hours, on average, to review and retain a credit union's financial option contract reports. At a rate of \$85 per hour, the estimated cost for NCUA to review these requests is \$51,000.

The total cost to NCUA is \$59,840.

**15. Changes in burden.**

The NCUA proposes to amend Appendix B of Part 741 to remove the prohibition on the capitalization of interest in connection with loan workouts and modifications and to allow FICUs to capitalize unpaid interest when working with borrowers. Currently, all FICUs are required to retain and maintain a written loan policy; of which 500 FICUs are estimated to take four hours annually to retain and maintain enhanced records related to loan workout activity. NCUA anticipates a 50 percent increase in the number of these respondents due to the amendments in this proposed rule. This proposed revision would increase the information collection requirements by 2,000 burden hours. A total of 23,584 burden hours requested.

**16. Information collection planned for statistical purposes.**

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

**17. Request non-display the expiration date of the OMB control number.**

There are no traditional forms associated with this information collection requirement. The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal Government's electronic PRA docket website at [www.reginfo.gov](http://www.reginfo.gov).

**18. Exceptions to the Certification for Paperwork Reduction Act Submission.**

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.