

National Credit Union Administration
SUPPORTING STATEMENT

Member Business Loans; Commercial Lending, 12 CFR Part 723
OMB No. 3133-0101

A. JUSTIFICATION

1. Circumstances that make the collection of information necessary.

To modernize 12 CFR part 723, Member Business Loans (MBL) and provide reasonable regulatory relief to federally insured credit unions (FICUs), the NCUA Board is altering its overall approach to regulating commercial lending, by shifting from a prescriptive rule to a principles-based rule. Specifically, the NCUA eliminated detailed collateral criteria and portfolio limits in 2016 and instead focuses on broad yet well-defined principles that clarify regulatory expectations for FICUs engaged in commercial lending activities. The 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 this 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 rule exempts from the requirements of §723.3 (Board of directors and management responsibilities) and §723.4 (Commercial loan policy) credit unions that meet all of the following conditions (qualifying credit unions):

- (i) The credit union's total assets are less than \$250 million.
- (ii) The credit union's aggregate amount of outstanding commercial loan balances and unfunded commitments, plus any outstanding commercial loan balances and unfunded commitments of participations sold, plus any outstanding commercial loan balances and unfunded commitments sold and serviced by the credit union total less than 15 percent of the credit union's net worth.
- (iii) In a given calendar year the amount of originated and sold commercial loans the credit union does not continue to service total less than 15 percent of the credit union's net worth.

2. Purpose and use of the information collection.

Under the rule, credit unions that are engaged in commercial lending must adopt a 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).

Credit unions are also required to document in their loan files any mitigating factors that offset any risk associated with making an unsecured loan and loans that do not require the full and unconditional personal guarantee from the borrower who has a controlling interest in the borrower.

3. Use of information technology.

Federal credit unions may use any available information technology to satisfy the information collection requirements. NCUA encourages the use of electronic information as it simplifies the data collection process and improves the accuracy and timeliness of the data.

4. Duplication of information.

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

5. Efforts to reduce burden on small entities.

The 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 the 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 60-day notice was published in the *Federal Register* on February 20, 2020, at 85 FR 9809, soliciting comments from the public. No public comments were received in response to this notice.

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.

12 CFR	Information Collection	Type of Burden	# Respondents	# Responses per Respondent (frequency)	Annual # Responses	Hours per Response	Total Annual Burden
723.4	Retain and maintain a comprehensive written commercial loan policy and procedures for commercial lending.	Record keeping	1,828	1	1,828	1	1,828
723.5(a) & (b)	Document and risks associated with an unsecured loan and loans that do not require personal guarantee.	Record keeping	1,828	1	1,828	.50	914
723.6 (b)(1)	Costs necessary to complete a construction project must be documented in an approved construction budget.	Record keeping	1,828	1	1,828	.50	914
Total			1,828	1	1,828	2	3,656

Based on the labor rate of \$35 per hour, the total cost to respondents is \$127,960.

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.

This is a recordkeeping requirement; therefore, there is no cost to the Federal government.

15. Changes in burden.

Adjustments have been made to (1) amend previously reported burden to only reflect burden associated with the requirements under PRA. The regulatory burden previous included in these totals has been removed. (2) A credit risk rating system is a requirement of the commercial lending policy and procedures and has been removed as a separate information collection. (3) The requirement to document collateral and construction budgets had previously been omitted, has been added. These adjustments reduce the burden by 43,588 hours, for a total of 3,656 burden hours requested.

16. Information collection planned for statistical purposes.

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 is displayed on the Federal government's electronic PRA docket website at www.reginfo.gov.

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

There are no exceptions to the certification statement.

A. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.