

National Credit Union Administration
SUPPORTING STATEMENT

Recordkeeping and Disclosure Requirements
Associated with Regulations B, E, M, and CC
OMB No. 3133-0103

A. JUSTIFICATION

1. Circumstances that make the collection of information necessary.

This information collection request provides for the application of three Consumer Financial Protection Bureau (CFPB) rules and one Board of Governors of the Federal Reserve System (FRB) rule. NCUA has enforcement responsibility for these rules for federal credit unions. These rules are:

- Regulation B (“Equal Credit Opportunity Act,” 12 CFR Part 1002);
- Regulation E (“Electronic Fund Transfers,” 12 CFR Part 1005);
- Regulation M (“Consumer Leasing,” 12 CFR Part 1013); and
- Regulation CC (“Availability of Funds and Collection of Checks,” 12 CFR Part 229).

Regulation B – 12 CFR Part 1002 – Equal Credit Opportunity Act (ECOA) (15 U.S.C. 1691)

The ECOA was enacted in 1974 and is implemented by Regulation B. ECOA and Regulation B prohibit lenders from discriminating in any aspect of a credit transaction on the basis of the applicant’s sex, marital status, race, color, religion, national origin, or age. It also prohibits discrimination because an applicant’s income is derived from a public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act (Pub.L. 90-321, 82 Stat.146).

The regulation establishes guidelines for gathering and evaluating information about personal characteristics in applications for certain dwelling-related loans, requires lenders to provide applicants with certain information including copies of appraisal reports in connection with credit transactions, and requires written notification of action taken on a credit application. The regulation contains rules relating to the use of co-signers. The regulation also requires spousal information to be reported to consumer reporting agencies to reflect participation of both spouses.

Regulation E – 12 CFR. Part 1005 – Electronic Fund Transfers (Electronic Fund Transfer Act, 15 U.S.C. 1693 et seq.)

The Electronic Fund Transfer Act (EFTA) was enacted in 1978 and is implemented by Regulation E. The EFTA and Regulation E establish the rights, liabilities, and responsibilities of parties in electronic fund transfer (EFT) services and offer protections

to consumers when they use such systems. The disclosures required by this regulation are designed to ensure consumer receive adequate disclosure of basic terms, costs, and rights relating to EFT services provided to them so that they can make informed decisions. Credit unions offering EFT services must disclose certain information to consumers including the following: initial and updated EFT terms, transaction information, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures. The regulation also covers change-in-terms notices if the change would result in increased liability for the consumer, increased fees, fewer types of available EFTs, or stricter limitations on the frequency or dollar amounts of transfers; disclosures related to loyalty, award, or promotional gift cards; and requirements for gift card and gift certificate exclusions, prohibition on sale of gift certificates or cards with expiration dates, and other certificate and card disclosures. Subpart B of the regulation covers activities of remittance transfer providers.

Regulation M – 12 CFR Part 1013 – Consumer Leasing (Consumer Leasing Act, 15 U.S.C. § 1667-1667f)

The Consumer Leasing Act (CLA) was enacted in 1976 as an amendment to the Truth in Lending Act (TILA). The CLA and Regulation M are intended to provide consumers with meaningful disclosures about the costs and terms of leases for personal property. The disclosures enable consumers to compare the terms for a particular lease with those for other leases and, when appropriate, to compare lease terms with those for credit transactions. The CLA and Regulation M also contain rules about advertising consumer leases and limit the size of balloon payments in consumer lease transactions. The CLA and regulation M requires lessors to disclose to consumers uniformly the costs, liabilities, and terms of consumer lease transactions. Disclosures are provided to consumers before they enter into lease transactions and in advertisements that state the availability of consumer leases on particular terms. The regulation generally applies to consumer leases of personal property in which the contractual obligation does not exceed \$54,600¹ and has a term of more than four months.

Regulation CC – 12 CFR Part 229 – Availability of Funds and Collection of Checks (Expedited Funds Availability Act, 12 U.S.C. 4001-4010 and the Check Clearing for the 21st Century Act, 12 U.S.C. 5001-5018)

This regulation establishes timeframes to govern the availability of funds deposited in checking accounts, rules to govern the collection and return of checks, and general provisions to govern the use of substitute checks. The regulation has consumer protection disclosure requirements and requires credit unions to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposit promptly. The disclosures are intended to alert customers that their ability to used deposited funds may be delayed, prevent unintentional (and costly) overdrafts, and allow customers to compare the policies of different institutions before deciding at which institution to

¹ The threshold amount is adjusted annually to reflect increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (§1013.1(e)(1)).

deposit funds. The regulation also requires notice to the depository bank and to a customer of nonpayment of a check.

2. Purpose and use of the information collected.

The third party disclosure and recordkeeping requirements in this collection are required by statute and regulation, as explained above. The regulations prescribe certain aspects of the credit application and notification process, making certain disclosures, uniform methods for computing the costs of credit, disclosing credit terms and cost, resolving errors on certain types of credit accounts, and timing requirements and disclosures relating to the availability of deposited funds.

3. Use of information technology.

Credit unions may provide electronic disclosures consistent with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 *et seq.*

Regulation B (ECOA) permits a creditor to retain records and monitoring information in a variety of electronic media.

4. Duplication of information.

The recordkeeping requirement of Regulation B (ECOA) preserves the information considered by the creditor in deciding whether to extend credit or terminate an existing credit account. The creditor is the only source of this information, and no other federal law mandates its retention. Similarly, the creditor is the only source of the information provided by appraisal reports, adverse action notices, and self-testing information. No other federal law mandates their disclosure, nor does it appear that any state law exists that mandates their disclosure.

5. Efforts to reduce burden on small entities.

Generally, the relevant statutes require the disclosures to be made notwithstanding the size of the credit union. Most credit unions today utilize some degree of computerization, which further assists in facilitating compliance with the regulations. Further, the regulations provide model forms and clauses that may be used in compliance with regulatory requirements. Correct use of these disclosures insulates creditors from liability from the respective requirements.

Regulation B (ECOA) allows credit unions that receive fewer than 150 applications annually to provide rejection notices orally rather than in writing.

6. Consequences of not conducting the collection.

Information collection pursuant to the underlying regulations is triggered by specific events, and disclosures must be provided to consumers within the time periods established by the law and regulation. If these requirements were conducted less frequently or eliminated, consumers would not have access to critical information needed to make informed decisions.

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

Each of the regulations in the collection have minimum record retention requirements. They generally are as follows:

- Regulation B (ECOA): 25 months
- Regulation E (EFTA): 2 years
- Regulation M (CLA): 2 years
- Regulation CC (EFAA): 2 years

8. Efforts to consult with persons outside the agency.

A 60-day notice was published in the *Federal Register* on November 14, 2019, at 84 FR 61941, soliciting comments from the public and no comments were received.

9. Payment or gifts to respondents.

No payments or gifts are provide to respondents from this collection.

10. Assurance of confidentiality.

There is no assurance of confidentiality provided to respondent.

11. Questions of a sensitive nature.

Applicants for mortgage loans, under Regulation B, are asked to voluntarily provide information on ethnicity, sex, age, and marital status so that regulators may monitor for compliance with the law. It is at the option of the applicant to provide this information and if they do not the creditor must, to the extent possible, note the ethnicity, race and sex of the applicant by visual observation or surname.

12. Burden of information collection.

A summary of the hour burden associated with Regulations B, E, M, and CC is shown below. A detailed burden table identifying each information collection activity is attached.

SUMMARY OF BURDEN	No. Respondents	No. Annual Responses	Total Annual Burden (hours)
Federal Credit Union Burden			
REG B	2,969	10,759,228	431,175
REG E	2,969	2,076,286	208,944
REG M	40	4,000	3,000
REG CC	2,969	11,807,733	337,876
Total		24,647,247	980,995
Consumer Burden			
REG E	24,700,000	24,700,000	2,058,333
TOTAL		49,347,247	3,039,328

13. Capital start-up or on-going operation and maintenance costs.

There are no capital/start-up costs or ongoing operation/maintenance costs associated with this information collection.

14. Annualized costs to Federal government.

These are recordkeeping and disclosure requirements. There are no costs to the Federal government.

15. Changes in burden.

This is an extension of a currently approved collection. Adjustments have been made to reflect an up-to-date accounting of the number of respondents resulting in a decrease of annual burden hours for a total of 3,039,328.

16. Information collection planned for statistical purposes.

This information will not be published.

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.

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

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not involve statistical methods.