

But it is undisputed that no participant in the proceeding in fact proposed rates or terms that differentiated among licensors and, accordingly, such a structure was not understood to be a subject of litigation.<sup>52</sup> Moreover, based on the parties' briefs in response to the referred question and the Copyright Office's review of the Web IV docket, there is no indication that the CRJs went beyond their general invitation at the outset of the proceeding to require that such differentiation be addressed.<sup>53</sup> As a result, no party addressed the question of "segmentation by licensor,"<sup>54</sup> and "no participant had the opportunity, or any reason, to introduce evidence or to respond to any such proposal, or to demonstrate the potential

"the potential applicability or inapplicability of price discrimination within the commercial webcaster segment of the market as well." *Id.* at 413–14. But the CRJs' discussion focused on price discrimination by *sellers—i.e.*, where sellers charge different prices for identical goods with the price differences based on the status of the buyers. *Id.* at 413. That, of course, is the type of price discrimination expressly contemplated by the statute, which requires the CRJs to adopt "rates and terms [that] distinguish among the different types of [services] then in operation." 17 U.S.C. 114(f)(2).

<sup>52</sup> See NAB/NRBNMLC Response Br. at 1; SiriusXM Initial Br. at 6; Independent Labels and Unions Initial Br. at 11–12; see also Direct Testimony of Kurt Hanson Submitted on behalf of AccuRadio, LLC, 16–18 (Oct. 6, 2014); Written Direct Statement of College Broadcasters, Inc. (Oct. 7, 2014) (attaching proposed regulations); Letter from David Oxenford on behalf of Educational Media Foundation to Copyright Royalty Board (Oct. 7, 2014) (joining in the rate proposal submitted by NRBNMLC); Written Direct Statement of Geo Music Group, 4–5 (Oct. 10, 2014); Written Testimony of Michael Papish on behalf of Harvard Radio Broadcasting Co., Inc. (WHRB) (Oct. 7, 2014); Written Testimony of Frederick J. Kass on behalf of Intercollegiate Broadcasting System (Oct. 7, 2014); Proposed Rates and Terms of iHeartMedia, Inc. (Oct. 7, 2014); Written Direct Statement of the National Association of Broadcasters, Vol. 1B (Oct. 7, 2014); Written Direct Case of the Corporation for Public Broadcasting, on behalf of National Public Radio, Inc., including National Public Radio, Inc.'s Member Stations, American Public Media, Public Radio International, and Public Radio Exchange Broadcasting, 6–8 (Oct. 7, 2014); Written Direct Statement of the National Religious Broadcasters Noncommercial Music License Committee, Including Educational Media Foundation (Oct. 7, 2014); Proposed Rates and Terms of Pandora Media, Inc.; Written Direct Statement of Sirius XM Radio Inc., 1–2 (Oct. 7, 2014); Proposed Rates and Terms of SoundExchange, Inc. (Oct. 7, 2014).

<sup>53</sup> See Notice of Participants, Commencement of Voluntary Negotiation Period, and Case Scheduling Order, Docket No. 14–CRB–0001–WR (2016–2020), 1 (Feb. 19, 2014) (asking parties to "address expressly issues relating to categories of licensees," but omitting any mention of issues relating to categories of licensors).

<sup>54</sup> SoundExchange Initial Br. at 2. In this regard, it is notable that SoundExchange finds itself unable to put forth a unified view on the question of differentiated rates. Presumably SoundExchange could not have acted as the representative of virtually all of the rightsholders in the proceeding if the question of a differentiated rate structure was actually in contention. See Independent Labels and Unions Initial Br. at 14.

administrative difficulties or consequences of such rates and terms."<sup>55</sup>

In this regard, the Register further observes that the CRJs are statutorily required to make determinations that are "supported by the written record"<sup>56</sup> and based "on economic, competitive and programming information presented by the parties."<sup>57</sup> Significantly, the U.S. Court of Appeals for the D.C. Circuit has twice vacated CRJ determinations that relied on theories "first presented in the Judges' determination and not advanced by any participant."<sup>58</sup> Here—consistent with their rate proposals—the participants' respective proposed findings of fact and conclusions of law submitted at the conclusion of the proceeding uniformly fail to advocate for statutory rates and terms that distinguish among licensors.<sup>59</sup> Moreover, in briefing the question now before the Register, no party has identified any basis upon which the CRJs could reasonably rely to adopt a differentiated rate structure.<sup>60</sup> Thus, even assuming for the sake of argument that they possess the legal authority to establish rates that differentiate by licensor,<sup>61</sup> it seems that under the current circumstances, the CRJs could not meet their basic obligation "to make

<sup>55</sup> See NAB/NRBNMLC Response Br. at 1.

<sup>56</sup> 17 U.S.C. 803(c)(3).

<sup>57</sup> *Id.* § 114(f)(2)(B).

<sup>58</sup> *Settling Devotional Claimants v. Copyright Royalty Bd.*, 797 F.3d 1106, 1121 (D.C. Cir. 2015) (quoting *Intercollegiate Broad. Sys. v. Copyright Royalty Bd.*, 574 F.3d 748, 767 (D.C. Cir. 2009) (internal quotation marks omitted)).

<sup>59</sup> See Proposed Findings and Conclusions of Intercollegiate Broadcasting Systems, 13 (July 19, 2015); Proposed Findings of Fact of iHeartMedia, Inc., 207 (June 24, 2015); National Association of Broadcasters' Proposed Findings of Fact and Conclusions of Law (July 19, 2015) (attaching NAB's Proposed Rates and Terms); The National Religious Broadcasters Noncommercial Music License Committee's Corrected Proposed Findings of Fact and Conclusions of Law (June 24, 2015) (attaching NRBNMLC's Proposed Noncommercial Webcaster Rates and Terms); Pandora Media, Inc.'s Proposed Findings of Fact and Conclusions of Law, 1–2 (June 19, 2015); Sirius XM Radio Inc.'s Proposed Findings of Fact, 1 (June 19, 2015); Proposed Findings of Fact of SoundExchange, Inc., 94–96 (June 19, 2015); Proposed Findings and Conclusions on behalf of Harvard Radio Broadcasting Co., Inc. (WHRB) (June 19, 2015).

<sup>60</sup> Although the Major Labels suggest that the CRJs could "credit evidence supporting a different rate structure than they have adopted in the past," they do not point to any actual argument or evidence in the record that would support such an approach. See Majors Labels Supp. Br. at 14. In any event, as noted, such an approach would appear to run afoul of controlling precedent. See *Settling Devotional Claimants*, 797 F.3d at 1121 (reversing CRJ determination where theory was "first presented in the Judges' determination and not advanced by any participant").

<sup>61</sup> In considering these procedural issues, the Register does not mean to suggest any conclusion concerning the CRJs' legal authority to adopt rates and terms that distinguish among licensors.

[a] reasoned decision[] supported by the written record before them."<sup>62</sup>

In sum, given the posture of the case, the question referred by the CRJs appears to be only a theoretical one in that the Register is unable to discern how a written decision at this juncture could substantively impact the conduct or outcome of this proceeding.<sup>63</sup> Indeed, the question itself is presented in hypothetical terms: it asks the Register to "assum[e] a factual basis in the evidentiary record" for a distinction among licensors. As significant as the question of a differentiated rate structure for licensors might be under different circumstances, the Register does not believe that the statute contemplates the issuance of a written opinion when the inquiry is wholly theoretical in nature.

The language of the Act makes clear that the referral procedure under section 802(f)(1)(B) is limited to novel material questions of substantive law that are actually "presented." As the Register has concluded that the question set forth in the CRJs' September 11, 2015 order is not actually presented in this proceeding, she leaves the answer for another day.

November 24, 2015

Maria A. Pallante  
Register of Copyrights and Director,  
United States Copyright Office

[FR Doc. 2015–30910 Filed 12–8–15; 8:45 am]

BILLING CODE 1410–30–P

## OFFICE OF MANAGEMENT AND BUDGET

### Information Collection; Request for Public Comments

**AGENCY:** Executive Office of the President, Office of Management and Budget.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) invites the general public and Federal agencies to comment on a revision of an approved information collection, Form SF–SAC, that is used to report audit results, audit findings, and questioned costs as required by the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 *et seq.*) and 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit

<sup>62</sup> *Settling Devotional Claimants*, 797 F.3d at 1121.

<sup>63</sup> Referral Order at 2.

Requirements for Federal Awards.” A draft of the proposed Form SF–SAC can be reviewed at the OMB Grants Management Internet home page at [http://www.whitehouse.gov/OMB/grants/grants\\_docs.html](http://www.whitehouse.gov/OMB/grants/grants_docs.html). The Form SF–SAC instructions contain a detailed listing of the proposed changes to the Form SF–SAC.

**DATES:** Submit comments on or before February 8, 2016. Late comments will be considered to the extent practicable.

**ADDRESSES:** Due to potential delays in OMB’s receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt. We cannot guarantee that mailed comments will be received before the comment closing date.

Electronic mail comments may be submitted to: Gilbert Tran at [hai\\_m\\_tran@omb.eop.gov](mailto:hai_m_tran@omb.eop.gov). Please include “2016 Form SF–SAC Comments” in the subject line and the full body of your comments in the text of the electronic message, not as an attachment. Please include your name, title, organization, postal address, telephone number and email address in the text of the message. Comments may also be submitted via facsimile to 202–395–3952 (with “2016 Form SF–SAC Comments” as title page).

Comments may be mailed to Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, Room 6025, New Executive Office Building, Washington, DC 20503.

In general, responses will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, (202) 395–3052. The proposed revisions to the Information Collection Form, Form SF–SAC can be obtained by contacting the Office of Federal Financial Management as indicated above or by download from the OMB Grants Management home page on at [https://www.whitehouse.gov/omb/grants\\_forms](https://www.whitehouse.gov/omb/grants_forms)

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Abstract**

This is a revision of a currently approved form with changes of Form SF–SAC, OMB Control Number 0348–0057.

Non-Federal entities (states, local governments, Indian tribes, institutions of higher education, and nonprofit organizations) that expend a total amount of Federal awards equal to or in excess of \$750,000 in any fiscal year are required by the Single Audit Act

Amendments of 1996 (31 U.S.C. 7501, *et. seq.*) (Act) and 2 CFR part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” (Uniform Guidance) to have audits of their Federal awards and file the resulting reporting packages and data collection forms (Single Audit reports) with the Federal Audit Clearinghouse (FAC). The data collection form (Form SF–SAC) is Appendix X to 2 CFR part 200. The Office of Management and Budget (OMB) has designated the U.S. Bureau of the Census as the FAC, which serves as the government-wide repository of record for Single Audit reports. The Uniform Guidance imposes new reporting requirements effective for non-Federal entity fiscal years beginning on or after December 26, 2014. The first year under the new requirements is the fiscal year ending on or after December 26, 2015.

The Single Audit process is the primary method Federal agencies and pass-through entities use to provide oversight for Federal awards and reduce risk of non-compliance and improper payments. This includes following up on audit findings and questioned costs. The proposed changes make revisions to the Form SF–SAC that reflect Uniform Guidance requirements; revise some existing data elements; and add data elements that would make the reports easier for Federal agencies, pass-through entities, and the public to use. The changes would also delete data elements that are no longer needed.

In particular, the Uniform Guidance requires the FAC to make Single Audit reports publically available on a Web site. This represents a change as the FAC previously only made publically available the Form SF–SAC data. The Uniform Guidance also requires non-Federal entities to sign a statement that the reporting package does not include protected personally identifiable information and that the FAC is authorized to make the reporting package and the data collection form publicly available on a Web site. An exception is provided in 2 CFR 200.512(b)(2) for Indian tribes and tribal organizations to opt not to authorize the public display of their reporting packages on the FAC Web site. The revised form reflects the Uniform Guidance’s requirements.

For fiscal year starting on or after December 26, 2014, the FAC also plans to allow Non-Federal entities who did not meet the threshold requiring submission of a Single Audit report to voluntarily notify the FAC that they did not meet the reporting threshold. This information helps the Federal agencies

in the review of applicants that fall below the reporting requirements. The FAC plans to put this information on their Web site.

In addition, we are planning a pilot project to combine the reporting of this form and the Schedule of Expenditures of Federal Awards into a singular form to streamline the Non-Federal entities reporting process. This proposal will be included under a separate notice.

##### **II. Method of Collection**

The information will be collected electronically through FAC’s Web based Internet Data Entry System available at <https://harvester.census.gov/facweb>.

##### **III. Data**

*OMB Control Number:* 0348–0057.

*Title:* Data Collection Form.

*Form Number(s):* SF–SAC.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* States, local governments, non-profit organizations (Non-Federal entities) and their auditors.

*Estimated Number of Respondents:* 80,000 (40,000 from auditees and 40,000 from auditors).

*Estimated Time per Response:* 65 hours for each of the 400 large respondents and 20 hours for each of the 79,600 small respondents.

*Estimated Total Annual Burden Hours:* 1,618,000.

*Estimated Number of Responses per Respondent:* 1.

*Frequency of Response:* Annually.

**Legal Authority:** Title 31 U.S.C. Section 7501 *et. seq.* and 2 CFR Part 200.

**Needs and Uses:** Reports from auditors to auditees and reports from auditees to the Federal government are used by non-Federal entities, pass-through entities and Federal agencies to ensure that Federal awards are expended in accordance with applicable laws and regulations. The FAC (designated by the U.S. Bureau of the Census) uses the information on the Form SF–SAC to ensure proper distribution of audit reports to Federal agencies and identify non-Federal entities who have not filed the required reports. The FAC also uses the information on the Form SF–SAC to create a government-wide database, which contains information on audit results. This database is publicly accessible on the Internet at <http://harvester.census.gov/fac/>. It is used by Federal agencies, pass-through entities, non-Federal entities, auditors, the Government Accountability Office, OMB and the general public for management of and information about Federal awards and the results of audits.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

In general, comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

**Mark Reger,**

*Deputy Controller.*

[FR Doc. 2015-30986 Filed 12-8-15; 8:45 am]

**BILLING CODE P**

#### NATIONAL CREDIT UNION ADMINISTRATION

##### Agency Information Collection Activities: Submission for Office of Management and Budget Review; Comment Request; for Reinstatement With Change of a Previously Approved Collection; Organization and Operation of Federal Credit Unions—Loan Participation

**AGENCY:** National Credit Union  
Administration (NCUA).

**ACTION:** Request for comment.

**SUMMARY:** National Credit Union Administration is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA). This is related to NCUA's regulation 701.22 that outlines requirements for loan participation programs. The rule requires various information collections, which NCUA uses to ensure credit unions have implemented a safe and sound loan participation program.

**DATES:** Comments will be accepted until January 8, 2016.

**ADDRESSES:** Interested persons are invited to submit written comments on the information collection to:

*NCUA Contact:* Tracy Crews, National Credit Union Administration, 1775

Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-837-2861, Email: *OCIOPRA@ncua.gov*

*OMB Reviewer:* Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503

#### **FOR FURTHER INFORMATION CONTACT:**

Requests for additional information should be directed to:

*NCUA Contact:* Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, Fax No. 703-837-2861, Email: *OCIOPRA@ncua.gov*

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Abstract and Request for Comments**

NCUA is requesting comments on 3133-0141; Organization and Operation of Federal Credit Unions—Loan Participation, 12 CFR part 701.22. NCUA's regulation, 12 CFR (§ 701.22), outlines loan participation requirements. Loan participations pose inherent risk to the NCUSIF due to the interconnectedness between participants. Section 741.225 extends the requirements of Section 701.22 of NCUA's regulations to Federally Insured State Chartered Credit Unions (FISCUs), noting there are strong indications of potential risk to the NCUSIF from FISCUs' loan participation activity. Section 701.22 includes three collection requirements (1) maintenance of a written policy, (2) requirements on the purchasing credit union to have a written loan participation agreement, (3) options to apply for waivers from concentration limits.

In the **Federal Register** of August 28, 2015, (80 FR 52344), NCUA published a 60-day notice requesting public comment on the proposed collection of information. NCUA received no comments.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to

be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

#### **II. Data**

*Title:* Organization and Operation of Federal Credit Unions—Loan Participation, 12 CFR part 701.22.

*OMB Number:* 3133-0141.

*Form Number:* None.

*Type of Review:* Reinstatement with change.

*Description:* Section 701.22 of NCUA's regulations, 12 CFR 701.22, outlines the requirements for the administration of a loan participation program. Section 741 of NCUA's regulations, 12 CFR 741.225, extends 12 CFR 701.22 to Federally Insured State Chartered Credit Unions. Section 701.22 includes various collections which NCUA uses to ensure credit unions have implemented a safe and sound program.

*Respondents:* Federally Insured Credit Unions.

*Estimated No. of Respondents/Recordkeepers:* 1,515 for loan participation policy revision and loan agreement retention, 10 for waiver submission and 1 for appeal request.

*Estimated Burden Hours per Response:* 3 hours per policy revision, 4 hours per waiver submission and 4 hours per appeal.

*Frequency of Response:* One time and optionally with each waiver submission.

*Estimated Total Annual Burden Hours:* 4,589 hours total.

*Estimated Total Annual Cost:* \$146,343.21.

By the National Credit Union Administration Board on November 18, 2015.

**Gerard Poliquin,**

*Secretary of the Board.*

[FR Doc. 2015-30934 Filed 12-8-15; 8:45 am]

**BILLING CODE 7535-01-P**

#### NATIONAL CREDIT UNION ADMINISTRATION

##### Agency Information Collection Activities: Submission to OMB for Reinstatement With Change, Bank Conversions and Mergers, 12 CFR Part 708a; Comment Request

**AGENCY:** National Credit Union  
Administration (NCUA).

**ACTION:** Request for comments.

**SUMMARY:** NCUA intends to submit the following information collection to the Office of Management and Budget