

Supporting Statement for Information Collection
Provisions of Regulation Z
(Truth in Lending Act)
12 CFR 226
(OMB Control Number: 3084-0088)

1. Necessity for Collecting and Retaining the Information

The Truth in Lending Act (“TILA”), 15 U.S.C. 1601 *et seq.*, was enacted to foster comparison credit shopping and informed credit decision making by requiring accurate disclosure of the costs and terms of credit to consumers. Creditors are subject to calculation and disclosure requirements that apply to open-end credit (*e.g.*, revolving credit or credit lines) and closed-end credit (*e.g.*, installment financing). The TILA imposes disclosure requirements on all types of creditors in connection with consumer credit, including mortgage companies, finance companies, retailers, and credit card issuers, to ensure that consumers are fully apprised of the terms of financing prior to consummation of the transaction and, in some instances, during the loan term. It also imposes advertising disclosure requirements on advertisers of consumer credit. The TILA also establishes billing error resolution procedures and limits consumer liability for the unauthorized use of credit cards. An amendment to the TILA, the Home Ownership and Equity Protection Act (“HOEPA”), imposes, among other things, various disclosure and other requirements on certain creditors offering high-rate, high-fee mortgage loans to consumers.

The Federal Reserve Board (“FRB”) promulgated Regulation Z to implement the TILA, as required by the statute. The Federal Trade Commission (“FTC” or “Commission”) enforces the TILA as to all creditors and advertisers except those (such as federally chartered or insured depository institutions) that are subject to the regulatory authority of another federal agency. The TILA also contains a private right of action with a one-year statute of limitations for consumers.

Recordkeeping

Section 226.25(a) of Regulation Z requires creditors to retain evidence of compliance with the regulation (other than the advertising requirements) for two years after the date disclosures are required to be made or other action is required to be taken. Regulation Z also provides that the FTC (and other administrative agencies responsible for enforcing the TILA) may require creditors under their jurisdictions to retain records for a longer period if necessary to carry out their enforcement responsibilities under the TILA. The recordkeeping requirement ensures that records that might contain evidence of violations of the TILA remain available to the FTC and other agencies, as well as to private litigants.

Disclosure

The disclosures required by Regulation Z are derived from statutory provisions under the TILA. *See e.g.*, 12 CFR 226.5a, 15 U.S.C. 1637(c)-(g); 12 CFR 226.5b, 15 U.S.C. 1637a and 1647; 12 CFR 226.6, 15 U.S.C. 1637(a); 12 CFR 226.7, 15 U.S.C. 1637(b) (various open-end disclosures); 12 CFR 226.18, 15 U.S.C. 1638; 12 CFR 226.33, 15 U.S.C. 1648 (various closed-end credit and reverse mortgage disclosures); 12 CFR 226.32 and 226.34, 15 U.S.C. 1639 (various high-rate, high-fee closed-end credit disclosures).

The FRB has issued model forms and clauses that can be used to comply with the written disclosure (non-advertising) requirements of the TILA and Regulation Z. *See, e.g.*, Appendixes D-H and K-L to Regulation Z. Correct use of these model forms and clauses insulates creditors from liability under the TILA and Regulation Z. *See* FRB Official Staff Commentary to Regulation Z ("Commentary"), Appendixes G and H, Comment 1; 12 CFR 226, Appendixes G and H, Supp. 1.

2. Use of the Information

The FTC, other agencies, and private litigants use the records to ascertain whether accurate and complete disclosures of the cost of credit have been provided to consumers prior to consummation of the credit obligation and, in some instances, during the loan term. The information is also used to determine whether other actions required under the TILA, including complying with billing error resolution procedures and limitation of consumer liability for unauthorized use of credit, have been met. The information retained provides the primary evidence of law violations in TILA enforcement actions brought by the FTC. Without the Regulation Z recordkeeping requirement, the FTC's ability to enforce the TILA would be significantly impaired.

As noted above, consumers rely on the disclosures required by the TILA and Regulation Z to comparison credit shop and to facilitate informed credit decision making. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of financing offered. Also, without the special billing error information and other credit card provisions, such as limitation of consumer liability for unauthorized use of credit, consumers would be unable to detect and correct errors on their credit card accounts and fraudulent charges. The FTC and private litigants need the information in these disclosures and other requirements to enforce the TILA and Regulation Z. *See* 15 U.S.C. 1607, 1640.

3. Consideration of the Use of Improved Information Technology

The FRB has issued final rules to establish uniform standards for using electronic communication to deliver disclosures required under Regulation Z, within the context of the Electronic Signatures in Global and National Commerce Act ("ESIGN"), 15 U.S.C. 7001 *et seq.* 72 FR 63,462 (Nov. 9, 2007). These rules enable businesses to utilize electronic disclosures and compliance, consistent with the requirements of ESIGN, which became effective on Oct. 1, 2000. Use of such electronic communications is also consistent with the Government Paperwork

Elimination Act (“GPEA”), Title XVII of Pub. L. 105-277, codified at 44 U.S.C. 3504, note. ESIGN and GPEA serve to reduce businesses’ compliance burden related to federal requirements, including Regulation Z, by enabling businesses to utilize more efficient electronic media for disclosures and compliance.

Regulation Z also permits creditors to retain records on microfilm or microfiche or any other method that reproduces records accurately, including computer programs. Creditors need only retain enough information to reconstruct the required disclosure or other records. Section 226.25(a)-2 of the Commentary, 12 CFR 226.25(a)-2.

4. Efforts to Identify Duplication/Availability of Similar Information

The recordkeeping requirement of Regulation Z preserves the information utilized by the creditor in making disclosures (and underlying calculations) of the terms of consumer credit and other required actions. The creditor is the only source of this information. No other federal law mandates these disclosures and other required actions. No state law known to staff imposes these requirements, although some states may have other rules applicable to consumer credit transactions.

Similarly, the disclosures required by the TILA and Regulation Z are not otherwise available. Although some credit cost information is contained in contractual documents, the information is not standardized. As a result, consumers cannot use it efficiently to comparison shop or to fully appreciate the credit terms. The creditor (and/or advertiser) is the only source of this information. No other federal law mandates these disclosures. State laws do not duplicate these requirements, although some states may have other rules applicable to consumer credit transactions.

5. Efforts to Minimize Burdens on Small Businesses

The TILA and Regulation Z recordkeeping and disclosure requirements are imposed on all creditors. The recordkeeping requirement is mandated by Regulation Z. The disclosure requirements are mandated jointly by the TILA and Regulation Z. As previously noted, the FTC’s role in this area is limited to enforcement, because the TILA vested rulemaking authority in the FRB.

Most lenders today utilize some degree of computerization in their business, and Regulation Z permits businesses to rely on computer support, among other alternatives, to meet their recordkeeping and disclosure requirements. This flexibility presumably yields reduced recordkeeping and disclosure costs. (See #3 above.) Moreover, as noted previously, Regulation Z provides model forms and clauses that may be used in compliance with its requirements. Correct use of these forms and clauses insulates a creditor from liability as to proper format.

6. Consequences of Conducting Collection Less Frequently

The current record retention period of two years supports the one-year statute of

limitations for private actions, and the FTC's (and other administrative agencies') need for sufficient time to bring enforcement actions regarding credit transactions. If the retention period were shortened, consumers who sue under the TILA, and the administrative agencies, might find that creditor records needed to prove violations of the TILA no longer exist.

As noted, the disclosure requirements are needed to facilitate comparison cost shopping and to spur informed credit decisionmaking. Without these requirements, consumers would not have access to this critical information. Their right to sue under the TILA would be undermined, and the FTC (and other administrative agencies) could not fulfill their mandate to enforce the TILA.

7. Circumstances Requiring Collection Inconsistent with Guidelines

The collections of information in Regulation Z are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

The recordkeeping and disclosure requirements of Regulation Z were promulgated by the FRB. Before the regulation was adopted and prior to each amendment, the FRB published the regulation for public comment in the Federal Register.

More recently, the Commission sought public comment in connection with its latest PRA clearance request for these regulations, in accordance with 5 CFR 1320.8(d). *See* 73 FR 70,347 (Nov. 20, 2008). No comments were received. Consistent with 5 CFR 1320.12(c), the FTC is again seeking public comment contemporaneously with this submission.

9. Payments or Gifts to Respondents

Not applicable.

10 & 11. Assurances of Confidentiality/Matters of a Sensitive Nature

The required recordkeeping and disclosures also contain private financial information about persons who use consumer credit that is protected by the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.* Such records may also constitute confidential customer lists. Any of these records provided to the FTC would be covered by the protections of Sections 6(f) and 21 of the FTC Act, 15 U.S.C. 46(f) and 57b-2, by Section 4.10 of the Commission's Rules of Practice, 16 CFR 4.10, and by the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), as applicable.

12. Estimated Hours Burden: 12,415,418

Recordkeeping

FTC staff estimates that Regulation Z’s recordkeeping requirements affect approximately 1,000,000 firms offering credit and subject to the Commission’s jurisdiction, at an average annual burden of one hour per firm, for a total of 1,000,000 hours.

Disclosure

Regulation Z disclosure requirements pertain to open-end and closed-end credit. It applies to various types of entities, including mortgage companies; finance companies; auto dealerships; student loan companies; merchants who extend credit for goods or services, credit advertisers; and others. Below is staff’s best estimate of burden applicable to this very spectrum of covered entities.

Regulation Z: Disclosures – Burden Hours

Disclosures ¹	----- Setup/Monitoring -----			----- Transaction-related -----			
	Respondents	Average Burden per Respondent (hours)	Total Setup/Monitoring Burden (hours)	Number of Transactions	Average Burden per Transaction (minutes)	Total Transaction Burden (hours)	Total Burden (hours)
Open-end credit:							
Initial terms	90,000	.5	45,000	40,000,000	.25	166,667	211,667
Rescission notices	7,500	.5	3,750	400,000	.25	1,667	5,417
Change in terms	20,000	.5	10,000	125,000,000	.125	260,417	270,417
Periodic statements	90,000	.5	45,000	3,500,000,000	.0625	3,645,833	3,690,833
Error resolution	90,000	.5	45,000	8,000,000	5	666,667	711,667
Credit and charge card accounts	50,000	.5	25,000	25,000,000	.25	104,167	129,167
Home equity lines of credit	7,500	.5	3,750	3,500,000	.25	14,583	18,333
Advertising	200,000	.5	100,000	600,000	.5	5,000	105,000
Closed-end credit:							
Credit disclosures	700,000	.5	350,000	200,000,000	1.5	5,000,000	5,350,000
Rescission notices	75,000	.5	37,500	30,000,000	1	500,000	537,500
Variable rate mortgages	70,000	.5	35,000	2,000,000	1.5	50,000	85,000
High rate/high-fee mortgages	40,000	.5	20,000	500,000	1.5	12,500	32,500
Reverse mortgages	50,000	.5	25,000	175,000	1	2,917	27,917
Advertising ²	450,000	.5	225,000	900,000	1	15,000	240,000
Total open-end credit							5,142,501
Total closed-end credit							6,272,917
Total credit							11,415,418

¹ Generally, open-end and closed-end entities and transactions have decreased, but reverse mortgages have increased, compared to prior FTC estimates.

² Advertising time for setup for open-end and closed-end mortgage transactions is estimated to increase based on new rules effective October 1, 2009, but the number of transactions have decreased, compared to prior FTC estimates.

Associated labor costs: \$ 372,419,363

Staff calculated labor costs by applying appropriate hourly cost figures to the burden

hours described above. The hourly rates used below (\$41 for managerial or professional time, \$30 for skilled technical time, and \$16 for clerical time) are averages.

Recordkeeping

For the 1,000,000 recordkeeping hours, staff estimates that 10 percent of the burden hours require skilled technical time and 90 percent require clerical time. As shown below, the total recordkeeping cost is \$17,400,000.

Disclosure

For each notice or information item listed, staff estimates that 10 percent of the burden hours require managerial or professional time and 90 percent require skilled technical time. As shown below, the total disclosure cost is \$355,019,363.

Regulation Z: Recordkeeping and Disclosures – Cost

Required Task	-----Managerial-----		-----Skilled Technical-----		-----Clerical-----		Total Cost (\$)
	Time (hours)	Cost (\$41/hr.)	Time (hours)	Cost (\$30/hr.)	Time (hours)	Cost (\$16/hr.)	
Recordkeeping	0	\$0	100,000	\$3,000,000	900,000	\$14,400,000	\$17,400,000
Open-end credit Disclosures:							
Initial terms	21,167	\$867,847	190,499	\$5,714,970	0	\$0	\$6,582,817
Rescission notices	542	\$22,222	4,874	\$146,220	0	\$0	\$168,442
Change in terms	27,042	\$1,108,722	243,374	\$7,301,220	0	\$0	\$8,409,942
Periodic statements	369,083	\$15,132,403	3,321,750	\$99,652,500	0	\$0	\$114,784,903
Error resolution	71,167	\$2,917,847	640,499	\$19,214,970	0	\$0	\$22,132,817
Credit and charge card accounts	12,917	\$529,597	116,249	\$3,487,470	0	\$0	\$4,017,067
Home equity lines of credit	1,833	\$75,153	16,500	\$495,000	0	\$0	\$570,153
Advertising	10,500	\$430,500	94,500	\$2,835,000	0	\$0	\$3,265,500
Total open-end credit							\$159,931,641
Closed-end credit Disclosures:							
Credit disclosures	535,000	\$21,935,000	4,815,000	\$144,450,000	0	\$0	\$166,385,000
Rescission notices	53,750	\$2,203,750	483,750	\$14,512,500	0	\$0	\$16,716,250
Variable rate mortgages	8,500	\$348,500	76,500	\$2,295,000	0	\$0	\$2,643,500
High-rate/high-fee mortgages	3,250	\$133,250	29,250	\$877,500	0	\$0	\$1,010,750
Reverse mortgages	2,792	\$114,472	25,125	\$753,750	0	\$0	\$868,222
Advertising	24,000	\$984,000	216,000	\$6,480,000	0	\$0	\$7,464,000
Total closed-end credit							\$195,087,722
Total Disclosures							\$355,019,363
Total Recordkeeping and Disclosures							\$372,419,363

13. Estimated Capital and Other Non-Labor Costs

The applicable requirements impose minimal start-up costs, as creditors and/or advertisers generally have or obtain necessary equipment for other business purposes. For the same reason, staff believes that the cost of printing and copying to comply with Regulation Z is minimal. Staff anticipates that the above requirements necessitate ongoing, regular training so that covered entities stay current and have a clear understanding of federal mandates. This training, however, would be a small portion of and subsumed within the ordinary training that employees receive apart from that associated with collecting information to comply with Regulation Z.

14. Estimated Cost to Federal Government

The FRB promulgates the recordkeeping requirement of Regulation Z, so there is no cost to the FTC for that purpose. Enforcement of the recordkeeping requirement of Regulation Z is incidental to overall enforcement of the TILA. In the course of our compliance investigations, staff routinely requests records from creditors of credit disclosures and other required actions. If the records are not available, that indicates the records are not being retained as required. However, additional enforcement resources are being applied to unfair and deceptive lending and servicing activity (including for enforcing the advertising and disclosure requirements under the TILA). Staff estimates that enforcing the recordkeeping requirement will cost the FTC Bureau of Consumer Protection approximately \$157,184, which is a representative years' cost of enforcing Regulation Z's requirements during the three-year clearance period sought. This estimate is based on the assumption that one attorney work year will be expended. Clerical and other support services are included in this estimate.

The FRB promulgates the disclosure requirements of Regulation Z, so there is no cost to the FTC for that purpose. Regarding enforcement, additional resources are being applied to unfair and deceptive lending and servicing activity (including for enforcing the advertising and disclosure requirements of the TILA). Staff estimates that the cost to the FTC Bureau of Consumer Protection of administering all TILA requirements will approximate \$1.4 million. This estimate is based on the assumption that eight full attorney work years and one other professional work year will be expended to enforce various aspects of these rules. Clerical and other support services are also included in this estimate.

15. Program Changes or Adjustments

FTC staff have adjusted downward the prior overall burden estimate by 5,223,582 hours (from 17,639,000 to 12,415,418). This reduction is due to several factors. Open-end and closed-end entities and transactions have decreased (although reverse mortgages have increased, relative to prior estimates). While estimated advertising time for setup for open-end and closed-end mortgage transactions has increased, based on new rules effective October 1, 2009, the number of transactions has decreased, relative to prior FTC estimates. Moreover, computer technology use has expanded for closed-end transactions with lengthy disclosures; previously, more manual efforts were used, e.g., mortgage disclosures for general credit terms, variable rate

transactions, and high rate-high fee loans. These combined factors thus reduce overall estimated burden.

16. Publishing Results of the Collection of Information

Not applicable.

17. Display of Expiration Date for OMB Approval

Not applicable.

18. Exceptions to the Certifications for PRA Submissions

Not applicable.