

Supporting Statement
Fair Credit Reporting Affiliate Marketing Regulations
(Affiliate Marketing/Consumer Opt-Out Notices)
(1550-0112)

A. Justification

1. Circumstances that make the collection necessary

Section 214 of the FACT Act, which added new section 624 to the FCRA, generally prohibits a person from using certain information received from an affiliate to make a solicitation for marketing purposes to the consumer, unless the consumer is given notice and an opportunity and simple method to opt out of making such solicitations. Section 214 also required the Agencies, the Securities and Exchange Commission (SEC), and the Federal Trade Commission (FTC), in consultation and coordination with each other, to issue regulations implementing section 214 that, to the extent possible, are consistent and comparable.

2. Use of the information

Consumers will use the information in the disclosures to decide whether to opt out of their institutions' affiliate marketing practices. Respondent entities will use the opt out notices to manage their affiliate marketing practices appropriately.

3. Consideration of the use of improved information technology

Financial institutions and consumers are free to utilize any technology they wish to reduce the burden associated with this collection.

4. Efforts to identify duplication

The Agencies were unable to identify any information collections that would duplicate the collections contained in the proposed Affiliate Marketing regulation.

5. Methods used to minimize burden on small entities

The collection applies to all institutions with affiliates, regardless of size, and all consumers associated with those institutions. However, in an effort to minimize the burden for financial institutions, particularly small thrifts (i.e., those with assets of \$175 million or less), the Agencies, including OTS, have published model disclosures and opt out notices that may be used for this collection. In addition, the collection allows institutions to minimize disclosure burden by incorporating the affiliate marketing notices into privacy notices that are already required by Title V of the Gramm-Leach-Bliley Act (approved under OMB control number 1550-0112). Financial institutions also have the option of choosing not to engage in the sharing of certain information with their affiliates for marketing purposes.

6. Consequences to the Federal program if the collection were conducted less frequently

Section 214 of the FACT Act requires that consumer opt-outs be effective for a minimum of five years. Financial institutions have the option of adopting for themselves a less frequent disclosure requirement by making consumer opt-outs effective for longer than the minimum five-year period, or by making consumer opt-outs effective in perpetuity, unless revoked by the consumer.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320

None.

8. Efforts to consult with persons outside the Agency

Notice of intent to renew this information collection was published in the *Federal Register* on October 6, 2010 (75 FR 61842). OTS has not received any comments.

9. Payment to respondents

There is no payment to respondents.

10. Assurance of confidentiality

Financial institutions would treat these disclosure requirements with the same degree of confidentiality as other disclosures of sensitive consumer information.

11. Justification for questions of a sensitive nature

There are no questions of a sensitive nature.

12. Burden Estimate

The OTS estimates that it will take persons approximately 18 hours (542 institutions) to prepare and distribute the initial notice and opt out to consumers and conduct employee training. For those consumers that choose to opt out of having their information shared with an affiliate, it will take approximately 5 minutes (192,937 consumers) to respond to the notice. Financial institutions that do not provide for a permanent opt out time period must notify consumers of the upcoming expiration of such time period before making solicitations for marketing purposes to them, where required by the final rule and section 214 of the FACT Act.

Total number of respondents: 193,479

Burden hours per response: 18 hours to prepare and distribute notice to consumers, and employee training; 5 minutes for consumer response to opt out notice.

Number of Institutions:

542 x 18 hours = 9,756 hours

Number of Consumers:

192,937 x 5 minutes = 16,078

Total burden hours: 25,834 hours

The OTS estimates the cost of the hour burden to respondents as follows:

Clerical:	90% x 25,834 x \$25 /hr	= \$ 581,265.00
Managerial/Technical:	9% x 25,834 x \$60/hr	= \$ 139,504.00
Senior Management/Professional:	1% x 25,834 x \$100 /hr	= \$ 25,834.00
Total:		\$ 746,603 .00

13. Capital/Start-up and Operation/Maintenance Costs

Institutions should be able to use readily available equipment to comply with the information collection requirements in the proposed rulemaking. Some software costs may be incurred to add the affiliate marketing disclosures and the processing of opt-out responses to the existing documents and procedures for privacy notices. Most institution documents of this nature are revised on a continuing basis. Therefore, whether the revisions are made in-house or through a servicer, the cost would be a part of usual and customary business practice.

14. Estimate of annualized cost to the Federal government

None.

15. Reason for Change in Burden

OTS is citing a reduction in the inventory burden in the amount of 3,121 hours. This reduction is considered an adjustment due to a reduction in the number of respondents.

16. Information regarding collections whose results are planned to be published

The information will not be published.

17. Display of expiration date

No exception is requested.

18. Exceptions to certification statement

None.

B. Collections of information employing statistical methods

Not applicable.

