

**CONSUMER FINANCIAL PROTECTION BUREAU
REQUEST FOR EMERGENCY PROCESSING AND APPROVAL
MORTGAGE ACTS AND PRACTICES (REGULATION N) 12 CFR 1014**

EMERGENCY JUSTIFICATION

The Bureau of Consumer Financial Protection (CFPB) respectfully requests emergency processing and approval of the collection of information discussed below because the use of normal clearance procedures is reasonably likely to prevent and disrupt an existing collection of information.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, Section 1097, 124 Stat. 1376, 2102 (2010) (Dodd-Frank Act) transferred rulemaking authority for the Mortgage Acts and Practices – Advertising Rule (MAP), Section 626 of the 2009 Omnibus Appropriations Act, Pub. L. 111-8, 123 Stat. 524, 678 (2009) (codified at 15 U.S.C. 1638 note) (Omnibus Appropriations Act), as clarified by Section 511 of the Credit Card Accountability and Responsibility and Disclosure Act of 2009, Pub. L. 111-24, 123 Stat. 1734, 1763 (2009) (Credit CARD Act), and as amended by the Dodd-Frank Act, to the CFPB on July 21, 2011. In addition to the transfer of rulemaking authority under the Dodd-Frank Act, the CFPB received certain enforcement authorities with respect to MAP.

The CFPB is in the process of publishing for public comment an interim final rule establishing a new regulation in 12 CFR Part 1014 (Regulation N). Regulation N was originally submitted for OMB review by the Federal Trade Commission (FTC) as a proposed rule on September 30, 2010. The FTC later finalized Regulation N and published the final rule on July 22, 2011 (Rule). The FTC’s record states that the Rule’s recordkeeping requirement constitutes a “collection of information” for purposes of the Paperwork Reduction Act¹ and that, except for minor clarifying changes, the Rule’s recordkeeping provision is the same as in the proposed rule. This interim final rule substantially replicates the Rule, and will not impose any new substantive obligations on regulated entities or any new information collection requirements.

As the CFPB now has enforcement authority over certain populations that have been under the jurisdiction of another agency, the CFPB is requesting approval of a new OMB control number for its collection activities under Regulation N. To prevent a disruption of an approved information collection, the CFPB is requesting emergency processing and approval of the following information collection request. Upon receipt of emergency approval from the Office of Management and Budget, the CFPB will begin a standard approval process for this collection and will seek public input at that time.

¹ The FTC’s record states that the Rule does not impose a disclosure requirement.

**CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
MORTGAGE ACTS AND PRACTICES (REGULATION N) 12 CFR 1014
(OMB CONTROL NUMBER: 3170-XXXX)**

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

The Omnibus Appropriations Act, as clarified by Section 511 of the Credit CARD Act, and as amended by Section 1097 of the Dodd-Frank Act directs the Bureau of Consumer Financial Protection (CFPB) to issue rules that “relate to unfair or deceptive acts or practices” regarding mortgage loans. Regulation N prohibits misrepresentations about the terms of mortgage credit products in commercial communications and requires that covered persons keep certain related records for a period of twenty-four (24) months from last dissemination. Specifically, Regulation N requires covered persons to retain : (1) copies of all materially different commercial communications disseminated, including but not limited to sales scripts, training materials, related marketing materials, websites, and weblogs; (2) documents describing or evidencing all mortgage credit products available to consumers during the time period in which each commercial communication was disseminated, including but not limited to the names and terms of each such mortgage credit product available to consumers; and (3) documents describing or evidencing all additional products or services (such as credit insurance or credit disability insurance) that are or may be offered or provided with the mortgage credit products available to consumers during the time period in which each commercial communication was disseminated, including but not limited to the names and terms of each such additional product or service available to consumers. A failure to keep such records is a violation of Regulation N.²

The FTC’s record supports the conclusion that the information that Regulation N requires covered persons to retain is necessary to ensure efficient and effective law enforcement to address deceptive practices that occur in the mortgage advertising area. To gauge whether covered persons are complying with Regulation N or making prohibited misrepresentations, the FTC’s record supports the conclusion that it is necessary to review the commercial communications that were disseminated and the information about the mortgage credit products and relevant additional products or services available during the time period in which each commercial communication was disseminated. Furthermore, the FTC’s record supports the conclusion that a strong recordkeeping provision is necessary to foster effective enforcement of Regulation N.

2. Use of the Information

The information that must be kept under Regulation N is used by the CFPB and other relevant agencies for enforcement purposes and to ensure compliance by covered persons with Regulation N.

3. Use of Information Technology

² Regulation N, § 1014.5.

The recordkeeping provision does not limit the use of available technology to maintain required records. Regulation N allows covered persons to retain records in any legible form, and in the same manner, format, or place as such records are kept in the ordinary course of business. Thus, Regulation N is consistent with the aims of the Government Paperwork Elimination Act, 44 U.S.C. 3504 note.

4. Efforts to Identify Duplication

The recordkeeping provision in the Regulation N does not duplicate any other federal information collection requirements. The CFPB is unaware of any duplicative state requirements.

5. Efforts to Minimize Burdens on Small Entities

Regulation N attempts to minimize compliance burdens for all entities. Inasmuch as the population of affected providers likely consists largely of small entities, exemptions based on size would undermine the protective aims of Regulation N.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

Regulation N is tailored to minimize the frequency of recordkeeping as much as possible. The FTC's record supports the conclusion that the 24-months retention requirement strikes an appropriate balance between ensuring efficient and effective compliance efforts, while avoiding the imposition of unnecessary costs.

7. Circumstances Requiring Special Information Collection

The collection of information in Regulation N is consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

This Supporting Statement is based on the FTC's most recent Supporting Statement for OMB Control Number 3084-0156. The CFPB has consulted with the FTC with respect to burden allocations. As this is a request for emergency processing and approval of the transfer of certain burdens from existing information collections to the CFPB, the CFPB has not sought public comment on this information collection request. Upon receipt of OMB's emergency approval, the CFPB will begin the standard approval process and will seek public input at that time.

9. Payments or Gifts to Respondents

Not applicable.

10. & 11. Assurances of Confidentiality/Justification for Sensitive Questions

Not applicable. To the extent that information covered by a recordkeeping requirement is collected by the CFPB for law enforcement purposes, the confidentiality provisions of 12 CFR Part 1070 would apply. Furthermore, much of the information to be disclosed is of a routine business nature.

12. Estimated Burden of Information Collection

Hours: 1,950,000

CFPB's estimate of the burden for the ongoing recordkeeping requirement under Regulation N is based on the assumption that the total ongoing burden for this regulation remains the same as it was before the regulation was restated by the CFPB. Prior to the passage of the Dodd-Frank Act, the ongoing recordkeeping burden for Regulation N allocated to the FTC was approximately 3,900,000 hours.³ In light of the changes made by the Dodd-Frank Act, one-half or roughly 1,950,000 hours of that burden is being allocated to the CFPB.

Associated Labor Costs: \$ 26,579,000

The CFPB calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly rates used are those associated with the burden hours assumed from the FTC.

The CFPB estimates that the ongoing recordkeeping cost allocated to the CFPB under Regulation N is \$26,579,000. This estimate was calculated by following the FTC's own cost analysis.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

Absent information to the contrary, the CFPB anticipates that existing storage media and equipment that covered persons use in the ordinary course of business will satisfactorily accommodate incremental recordkeeping under Regulation N. Accordingly, the CFPB does not anticipate Regulation N will require any new capital or other non-labor expenditures.

14. Estimated Cost to the Federal Government

As the CFPB does not collect any information, the cost to the CFPB is negligible.

15. Program Changes or Adjustments

None.

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable.

³ For purposes of the current request for emergency review and approval, the CFPB has relied on the estimates previously developed by the FTC concerning the number of entities subject to Regulation N and the hours of paperwork burden under the statute (for a detailed breakdown of the burden estimates of the FTC, please reference the FTC's supporting statement for Regulation N, which can be found at www.reginfo.gov). The CFPB's enforcement authority is not necessarily limited to the entities covered by the FTC's estimates. The CFPB will conduct a more detailed review of burden allocations and provide more detailed estimates in its follow-up application to OMB for a standard approval of this information collection.

17. Display of Expiration Date

Not applicable.

18. Exceptions to the Certification Requirement

None.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.