

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

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.¹

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

¹ 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 notice of interim final rule was published in the Federal Register (76 FR 78130), on December 16, 2011, and provided the public a 60-day period in which to review and provide public comments relating to any aspect of the interim final rule.

In response to the Federal Register notice (77 FR 2685), dated January 19, 2012, we received no comments during the comment period regarding this interim final rule.

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. 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

As suggested by OMB, our Federal Register notice dated January 19, 2012, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any responses from individuals on this subject. As a result, estimates of these cost burdens are not available at this time.

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

There were no changes made to the document that resulted in any change to the burden previously reported to OMB. However, corrections are being requested to the amount of hours currently listed with OMB. We are requesting that the total burden hours be decreased to 1,950,000 (as explained in question 12, above).

We are making this submission to revise and renew the OMB approval.

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable.

17. Display of Expiration Date

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading consumers to believe that the regulation sunsets as of the expiration date. Consumers are not likely to be aware that the Bureau intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. Exceptions to the Certification Requirement

None.

Note: The following paragraph applies to all of the collections of information in this submission:

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