

**CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
TRUTH IN LENDING ACT (REGULATION Z) 12 CFR 1026
(OMB CONTROL NUMBER: 3170-0015)**

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

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 disclosure and other 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 for open-end credit 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-cost mortgage loans to consumers.

The Bureau of Consumer Financial Protection (CFPB) is promulgating Regulation Z to implement the TILA, as required by the statute. The CFPB enforces the TILA as to certain creditors and advertisers. The TILA also contains a private right of action for consumers.

Recordkeeping

Section 1026.25(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 1026.5a, 15 U.S.C. 1637(c)-(g); 12 CFR 1026.5b, 15 U.S.C. 1637a and 1647; 12 CFR 1026.6, 15 U.S.C. 1637(a); 12 CFR 1026.7, 15 U.S.C. 1637(b) (various open-end disclosures); 12 CFR 1026.18, 15 U.S.C. 1638; 12 CFR 1026.33, 15 U.S.C. 1648 (various closed-end credit and reverse mortgage disclosures); 12 CFR 1026.32 and 1026.34, 15 U.S.C. 1639 (various high-cost mortgage loan

disclosures).

Regulation Z includes 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.*, Appendices 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* Official Commentary to Regulation Z (Commentary), comment app. G and H-1.

2. Use of the Information

Federal and state enforcement agencies and private litigants use records retained under the requirement of Regulation Z 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 federal agencies. Without the Regulation Z recordkeeping requirement, the agencies' 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 shop among options 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, consumers would be unable to detect and correct errors or fraudulent charges on their open-end credit accounts. Additionally, enforcement agencies and private litigants need the information in these disclosures to enforce the TILA and Regulation Z. *See* 15 U.S.C. 1607, 1640.

3. Use of Information Technology

Regulation Z contains 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.* 12 CFR 1026.5(a)(1)(iii), 1026.17(a)(1). These rules enable businesses to utilize electronic disclosures and compliance, consistent with the requirements of ESIGN. 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 use 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. Comment 25(a)-2.

4. Efforts to Identify Duplication

The recordkeeping requirement of Regulation Z preserves the information used 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 the CFPB 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 shop or to appreciate fully the credit terms they are considering. 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 Entities

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.

Most lenders today use 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 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 Less Frequent Collection and Obstacles to Burden Reduction

The current record retention period of two years supports private actions and regulatory enforcement actions. 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 decision making. Without these requirements, consumers would not have access to this critical information. Their right to sue under the TILA would be undermined, and enforcement agencies could not fulfill their mandate to enforce the TILA.

7. Circumstances Requiring Special Information Collection

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

This notice of final rule was published in the Federal Register (76 FR 79768), on December 22, 2011.

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

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 CFPB would be covered by the protections of the CFPB's rules on Disclosure of Records and Information, 12 CFR Part 1070, and by the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), as applicable.

12. Estimated Burden of Information Collection

Hours: 6,467,000

CFPB's estimate of the burden for ongoing recordkeeping and disclosure requirements under Regulation Z is based on the assumption that the total ongoing burden for this regulation, across all agencies, 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 and disclosure burdens for Regulation Z allocated to the prudential regulators and the FTC were approximately 21,867,000 hours. In light of the changes made by the Dodd-Frank Act, roughly 6,106,000 hours of that burden is being reallocated to the CFPB. Specifically, CFPB is being allocated burden for 180 depository institutions (comprising depository institutions with total assets of more than \$10 billion and their depository affiliates) which is the approximate number of such depository entities that the CFPB now has primary enforcement authority for with respect to Regulation Z.¹ The CFPB is also being allocated half of the Federal Trade Commission (FTC) burden amount after subtracting the burden which the FTC has attributed to itself for motor vehicle dealers.²

In addition to the ongoing burden, the recodified Regulation Z will impose a one-time burden on

¹ These include 27 from the Board, 70 from the OCC, 24 from the OTS, 3 from the NCUA, and 56 from the FDIC.

² The Dodd-Frank Act exempts certain motor vehicle dealers from CFPB's enforcement authority. However, due to the difficulty of making a reliable estimate of those dealers, the FTC has attributed to itself the PRA burden for all motor vehicle dealers. This attribution does not change actual enforcement authority.

credit issuers that need to change forms G-10(A) and G-17(A) to reflect the new CFPB website and reference. For the purposes of calculating the burden hours allocated to the CFPB in light of the CFPB's enforcement authority, the CFPB estimates that the approximate total burden to make these one-time changes is 361,000 hours. This estimate assumes it should take four hours per form, per firm, to make the necessary, yet simple, form changes. Since the CFPB and the FTC are roughly splitting the burden associated with firms under the enforcement authority of both agencies, the CFPB is only being allocated two of the four hours estimated for each of the non-depository creditors. This burden may be overstated to the extent that multiple firms use the same software vendors, who are able to spread any required burden over all of their affected clients. These estimates may also be overstated because the Bureau is giving creditors one year to effect the changes, thus allowing creditors to include the changes in routine, scheduled systems updates during the next year.

Associated Labor Costs: \$ 196,041,000

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 other regulatory agencies, which differ by agency.

The CFPB estimates that the ongoing recordkeeping and disclosure costs allocated to the CFPB under Regulation Z are \$184,794,000. This estimate was calculated by summing the CFPB's share of costs from the supporting statements of the other agencies, following each agency's own cost analysis. For a detailed breakdown of the cost analysis, please reference the other agencies' supporting statements for Regulation Z.

For the purposes of calculating the costs allocated to the CFPB in light of the CFPB's enforcement authority, for the one-time revisions to the forms described above, the CFPB estimates that the total one-time cost for these changes is \$11,247,000. These estimates may be overstated to the extent that multiple firms use the same software vendors, who are able to spread any required burden over all of their affected clients. These estimates may also be overstated because the CFPB is giving creditors one year to effect the changes, thus allowing creditors to include the changes in routine, scheduled systems updates during the next year.

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.

We are making this submission to 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.