

**CONSUMER FINANCIAL PROTECTION BUREAU  
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT  
TRUTH IN SAVINGS (REGULATION DD) 12 CFR 1030  
(OMB CONTROL NUMBER: 3170-0004)**

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**TERMS of CLEARANCE**

In its July 16, 2012 Notice of Action, the Office of Management and Budget (OMB) provided the following Terms of Clearance:

*After discussing with [the Consumer Financial Protection Bureau] CFPB the issues of incorporating burden and cost estimates, possible exemptions and both the scope and somewhat opaque specificity of some of the aspects of Regulation DD and this [Information Collection Request] ICR - mainly due to having so much of the information corralled from other agencies – [Office of Information and Regulatory Affairs] OIRA will approve the current ICR for one year. This should be sufficient time for CFPB to perform its cost and burden estimates and to analyze and implement Regulation DD as it sees fit. This amount of time will likely produce results that CFPB can use in its next ICR submission one year from now. CFPB related the processes they are currently undertaking to resolve and update the various pieces of regulatory authority (from multiple agencies) now under their control. OIRA's hope is that within the next year, CFPB can perform their own analysis of this new Regulation and accompanying ICR, followed by submission of an updated, vetted ICR for approval over a longer period of time.*

The CFPB respectfully requests that the OMB approve this information collection for a full three-year period. The burden estimates for Regulation DD have been duly vetted through the public notice and comment process; the Bureau received no comments in response to the Federal Register Notice. No changes to the information collection requirements as currently contained in Regulation DD are currently planned. As noted above, the Bureau is currently undertaking an examination of the costs of compliance with certain regulations for which the Bureau has authority, including Regulation DD. The Study is not yet complete and so the Bureau has not received public feedback on the methodology or findings. The Bureau believes that the findings from the Cost of Compliance Study will ultimately inform our measurement of the burden of Regulation DD for purposes of the Paperwork Reduction Act. However, the fact that the results of the Study are still preliminary and the Study was not designed to directly measure PRA burden mean that further analysis is required before the findings of the Study can be used for this purpose. The CFPB expects to conduct this analysis and use the Study findings, as applicable, to update the burden estimates after the Study is completed and feedback on it has been obtained.

**ABSTRACT**

Consumers rely on the disclosures required by TISA and Regulation DD to facilitate informed decision making regarding deposit accounts offered at depository institutions. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of the deposit accounts offered. Federal agencies and private litigants use the records to ascertain whether accurate and complete disclosures of depository accounts have been provided to consumers. This information also provides the primary evidence of law violations in TISA enforcement actions brought by the CFPB. Without the Regulation DD recordkeeping requirement, the CFPB's ability to enforce TISA would be significantly impaired.

## **A. JUSTIFICATION**

### **1. Circumstances Necessitating the Data Collection**

The Truth in Savings Act (TISA), 12 U.S.C. 4301 *et seq.*, was enacted to enhance economic stability, improve competition between depository institutions, and strengthen consumers' ability to make informed decisions regarding deposit accounts by requiring uniformity in the disclosure of interest rates and fees. TISA assists consumers in comparing deposit accounts offered by depository institutions, principally through the disclosure of fees, the annual percentage yield, the interest rate, and other account terms.

Historically, TISA has been implemented in Regulation DD of the Board of Governors of the Federal Reserve System (Board), 12 CFR Part 230 (and, with respect to credit unions, by National Credit Union Administration (NCUA) regulations at 12 CFR Part 707). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)<sup>1</sup> amended a number of consumer financial protection laws, including TISA. In addition to various substantive amendments, the Dodd-Frank Act transferred the Board's rulemaking authority for TISA to the Bureau of Consumer Financial Protection (CFPB), effective July 21, 2011.<sup>2</sup> The CFPB is promulgating Regulation DD to implement TISA, as required by statute. Regulation DD is located at 12 CFR 1030 and is available [here](http://www.ecfr.gov) at [www.ecfr.gov](http://www.ecfr.gov).

TISA and Regulation DD require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. TISA and Regulation DD mandate the methods by which institutions determine the account balance on which interest is calculated. They also contain rules about advertising deposit accounts and overdraft services.

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<sup>1</sup>Pub. L. 111-203, 124 Stat. 1376 (2010).

<sup>2</sup> Dodd-Frank Section 1029 generally excludes from this transfer of authority, subject to certain exceptions, any rulemaking authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

Regulation DD applies to all depository institutions except credit unions.<sup>3</sup> The information collected pursuant to Regulation DD is triggered by specific events and disclosures and must be provided to consumers within the time periods established by TISA and the regulation. There are no reporting forms associated with Regulation DD. To ease the compliance cost (particularly for small entities), model clauses and sample forms are appended to the regulation.

### **Recordkeeping**

Section 1030.9(c) of Regulation DD requires depository institutions subject to TISA to retain evidence of compliance with the regulation for two years after the date disclosures are required to be made or action is required. Regulation DD also provides that administrative agencies responsible for enforcing the regulation may require depository institutions under their jurisdiction to retain records for a longer period if necessary to carry out their enforcement responsibilities under TISA. The recordkeeping requirement insures that records that might contain evidence of violations of TISA remain available to Federal agencies, as well as to private litigants.

### **Disclosure**

TISA and Regulation DD cover accounts held by individuals primarily for personal, family, or household purposes. The disclosure requirements associated with Regulation DD are described below.

#### Account Disclosures (Section 1030.4)

Depository institutions are required to provide account disclosures containing rate and fee information to a consumer upon request. Account disclosures must also be provided prior to opening an account or before services are provided, whichever is earlier. The purpose of the disclosure requirement is to provide account holders and prospective account holders with the type and amount of any fees that may be imposed, (including ATM withdrawals or other electronic fund transfers); the interest rate and the APY that will be paid on an account; and other key terms. Institutions are required to specify the categories of transactions for which an overdraft fee may be imposed in the account-opening disclosures provided under TISA.

#### Subsequent Notices (Section 1030.5)

*Change-in-terms notice (Section 1030.5(a)).* Depository institutions are required to provide 30 days' notice of any change that may reduce the APY or adversely affect consumers, such as a change in fees. Certain types of events such as changes in the interest rate and APY for variable rate accounts are exempt from this requirement.

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<sup>3</sup> Credit unions are covered by a substantially similar rule issued by the National Credit Union Administration.

*Notice prior to maturity (Sections 1030.5(b),(c)).* Depository institutions are required to provide notices prior to maturity for certain time accounts. The timing and content requirement of the notice varies depending on the term of a time deposit and whether it renews automatically:

- For automatically renewable time accounts with a term less than or equal to one month, no advance notice is required.
- Advance notices for automatically renewable time accounts with a maturity longer than one month but less than or equal to one year may be sent either 30 days before maturity or, as an alternative, 20 calendar days before the end of a grace period, so long as the grace period is at least 5 days. The alternative timing rule was adopted to allow flexibility for institutions to maintain any existing practice to send notices 10 to 15 days prior to maturity. The notice may contain the disclosures required when the account is opened or, as an alternative, information on the interest rate and APY for the new account, the maturity date for the existing and new accounts, and any changes in terms.
- For automatically renewable time accounts with terms longer than one year, institutions must provide disclosures required at account opening. The timing rules for these accounts longer than one year are the same as for accounts with maturities longer than one month but less than or equal to one year.

For nonrenewable time accounts with a maturity of less than or equal to one year, no notice is required. If the maturity is longer than one year, the notice must provide information on the maturity date, and whether or not interest will be paid after maturity.

#### Periodic Statement Disclosure (Section 1030.6)

Neither TISA nor the regulation mandates that depository institutions provide periodic statements. If an institution chooses to provide periodic statements, however, the statements must contain specific information: the total number of days in, or the beginning and ending dates of, the statement period; the dollar amount of interest earned and APY earned; fees imposed on the account, itemized by type and dollar amount; and if applicable, the total overdraft and returned item fees for the statement period and for the calendar year to date.

#### Advertising (Section 1030.8)

The advertising rules apply to both depository institutions and deposit brokers. The purpose of the advertising rules is to provide potential shoppers with uniform and accurate information that they can use in deciding among various deposit accounts.

#### Additional disclosure requirements for overdraft services (Section 1030.11)

Institutions providing periodic statements must separately disclose on such statements the total amount of fees or charges imposed on the deposit account for paying overdrafts and the total amount of fees charged for returning items unpaid. These disclosures must be provided for the statement period and for the calendar year to date.

Furthermore, advertisements generally promoting the payment of overdrafts must disclose the fees for the payment of each overdraft, the categories of transactions for which a fee for paying an overdraft may be imposed, the time period by which a consumer must repay or cover any overdraft, and the circumstances under which the institution will not pay an overdraft. Moreover, any account balance disclosed to a consumer through an automated system (including, but not limited to, an ATM, Internet Web site, or telephone response system) must exclude additional amounts that the institution may provide or that may be transferred from another account of the consumer to cover an item where there are insufficient or unavailable funds in the consumer's account. An institution may, however, disclose an additional account balance that includes such additional amounts provided the institution states that any such balance includes such additional amounts, and if applicable, that additional amounts are not available for all transactions.

## **2. Use of the Information**

Federal agencies and private litigants use the records to ascertain whether accurate and complete disclosures of depository accounts have been provided to consumers. This information also provides the primary evidence of law violations in TISA enforcement actions brought by the CFPB. Without the Regulation DD recordkeeping requirement, the CFPB's ability to enforce TISA would be significantly impaired.

Consumers rely on the disclosures required by TISA and Regulation DD to facilitate informed decision making regarding deposit accounts offered at depository institutions. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of the deposit accounts offered. These disclosures and provisions are necessary for the CFPB and private litigants to enforce TISA and Regulation DD.

## **3. Use of Information Technology**

Regulation DD contains rules to establish uniform standards for using electronic communication to deliver disclosures required under Regulation DD, within the context of the Electronic Signatures in Global and National Commerce Act (ESIGN), 15 U.S.C. 7001 *et seq.* 12 CFR 1030.3(a). 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 DD, by enabling businesses to use more efficient electronic media for disclosures and compliance.

Regulation DD also permits depository institutions to retain records on microfilm or microfiche or any other method that reproduces records accurately, including computer programs. Depository institutions need only retain enough information to reconstruct the required disclosure or other records. Comment 9(c)-2.

#### **4. Efforts to Identify Duplication**

The recordkeeping requirement of Regulation DD preserves the information an affected entity uses in making disclosures and other required actions regarding deposit accounts. The entity is the only source of this information. No other federal law mandates its retention. State laws do not duplicate these requirements, although some states may have other rules applicable to deposit accounts.

Similarly, covered entities are the only source of the information contained in the disclosures required by the TISA and Regulation DD. No other federal law mandates these disclosures. State laws do not duplicate these requirements, although some states may have other rules applicable to deposit accounts.

#### **5. Efforts to Minimize Burdens on Small Entities**

The TISA and Regulation DD recordkeeping and disclosure requirements are imposed on all depository institutions, except credit unions. As noted above, small businesses that are credit unions are not covered by Regulation DD. The recordkeeping requirement is mandated by Regulation DD. The disclosure requirements are mandated jointly by the TISA and Regulation DD.

Most depository institutions today use some degree of computerization in their business, and Regulation DD 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 DD provides model forms and clauses that may be used in compliance with its requirements. Correct use of these forms and clauses insulates a depository institution 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 the one-year statute of limitations for private actions, and enforcement agencies' need for sufficient time to bring enforcement actions regarding deposit accounts. If the retention period were shortened, consumers who sue under TISA, and the administrative agencies, might find that depository institution records needed to prove violations of TISA no longer exist.

As noted, the disclosure requirements are needed to facilitate comparison cost shopping and to spur informed decision making regarding deposit accounts. Without these requirements, consumers would not have access to this critical information. Their right to sue under TISA would be undermined, and enforcement agencies could not fulfill their mandate to enforce TISA.

#### **7. Circumstances Requiring Special Information Collection**

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

## **8. Consultation Outside the Agency**

In accordance with 5 CFR 1320.8(d)(1), on May 14, 2013, the CFPB has published a notice Federal Register allowing the public 60 days to comment on the proposed extension of this currently approved collection of information (78 FR 28204). No comments were received in response to this Notice.

Further and in accordance with 5 CFR 1320.5(a)(1)(iv), the Bureau will publish a notice in the Federal Register allowing the public 30 days to comment on the submission of this information collection request to the Office of Management and Budget.

## **9. Payments or Gifts to Respondents**

Not applicable.

## **10. Assurances of Confidentiality**

The required recordkeeping and disclosures 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.

## **11. Justification for Sensitive Questions**

Not applicable.

## **12. Estimated Burden of Information Collection**

Hours: 23,000

The CFPB's estimate of the burden for ongoing recordkeeping and disclosure requirements under Regulation DD 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 DD allocated to the Board, Office of the Comptroller of the Currency, Office of Thrift Supervision, and Federal Deposit Insurance Corporation were approximately 860,000 hours.<sup>4</sup> In light

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<sup>4</sup> The CFPB has relied on the estimates previously developed by the Board, OCC, OTS, and FDIC concerning the number of entities subject to Regulation DD and the hours of paperwork burden under the statute (for a detailed breakdown of the burden estimates of those regulators, please reference the other agencies' supporting statements for Regulation DD, which can be found at [www.reginfo.gov](http://www.reginfo.gov)). The

of the changes made by the Dodd-Frank Act, roughly 23,000 hours of that burden is being reallocated to the CFPB. Specifically, the CPPB is being allocated burden for 142 depository institutions (comprising banks and thrifts 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 DD.<sup>5</sup>

## **Summary of CFPB's PRA Burden for Regulation DD**

Associated Labor Costs: \$903,671

The CFPB calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. The hourly cost figures 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 DD are \$903,671. 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 DD.

### **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. Therefore, we have determined that there are no additional costs for respondents or recordkeepers other than the labor costs estimated above in Item 12.

### **14. Estimated Cost to the Federal Government**

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

### **15. Program Changes or Adjustments**

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CFPB's enforcement authority is not necessarily limited to the entities covered by these agencies' estimates. In some instances, information regarding actual burden hours or dollar costs, or breakdowns of these hours or costs was not available from the other agencies. In these cases, CFPB has estimated the relevant figures based on data provided by the OCC and in some cases by the Board.

<sup>5</sup>The previous total was 177, which included 27 from the Board, 70 from the OCC, 24 from the OTS, and 56 from the FDIC. As some of the reduction from 177 to 142 CFPB supervised entities is due to the absorption of CFPB supervised affiliates by CFPB supervised banks, the CFPB chooses not to reduce the CFPB burden hours proportionately.



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**

Not applicable.

**18. Exceptions to the Certification Requirement**

The expiration date of this OMB control number is displayed on OMB's public-facing docket at [www.reginfo.gov](http://www.reginfo.gov).

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable.