

**Supporting Statement for the Privacy of
Consumer Financial Information Rule
16 CFR § 313
(OMB Control No. 3084-0121)**

(1) & (2) Necessity for and Use of the Information Collection

The Gramm-Leach-Bliley Act (“GLB Act” or the “Act”), Pub. L. No.106-102, 113 Stat. 1338 (November 12, 1999), permits banks to affiliate with firms engaged in insurance, securities, and other financial activities. Title V, Subtitle A of the GLB Act (“Subtitle A”) provides certain privacy protections to consumers. The Federal Trade Commission (“FTC” or “Commission”) is charged with prescribing rules as necessary to implement the provisions of Subtitle A as to those entities over which the Commission has enforcement jurisdiction.¹ Accordingly, the Commission promulgated the Privacy of Consumer Financial Information Rule (also known as the “Rule” or the “GLB Privacy Rule”).

As mandated by the GLBA, the Rule implements consumer disclosure requirements that are subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35 (“PRA”).² The required disclosures are: (1) initial notice of the financial institution’s privacy policy when establishing a customer relationship with a consumer and/or before sharing a consumer’s non-public personal information with certain nonaffiliated third parties; (2) notice of the consumer’s right to opt out of information sharing with such parties; (3) annual notice of the institution’s privacy policy to any continuing customer; and (4) notice of changes in the institution’s practices on information sharing. The Rule does not include recordkeeping requirements.

The Rule’s requirements are designed to ensure that customers and consumers, subject to certain exceptions, will have access to the privacy policies of the financial institutions with which they conduct business. The privacy policies must state: (a) the categories of nonpublic personal information the financial institution collects; (b) the categories of nonpublic personal information the financial institution discloses; (c) the categories of affiliates and nonaffiliated third parties to whom the financial institution discloses such information; and (d) the financial institution’s policies and practices with respect to protecting the confidentiality, security, and integrity of the information. In certain situations, consumers will also be informed of the means by which they can opt out of financial institution sharing of their nonpublic personal information with nonaffiliated third parties.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank

¹ 15 U.S.C. §§ 6804, 6805. Other agencies were also required to issue rules with respect to those entities over which they have enforcement jurisdiction. For example, the Bureau of Consumer Financial Protection issued Privacy Of Consumer Financial Information (Regulation P), 12 CFR § 1016, which applies to depository institutions and many non-depository institutions. *See* 76 Fed. Reg. 79,028 (Dec. 21, 2011).

² Under the PRA, federal agencies must get OMB approval for each collection of information they conduct, sponsor, or require. “Collection of information” means agency request or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. § 3502(3); 5 CFR § 1320.3(c).

Act”)³ substantially changed the federal legal framework for financial services providers. Among the changes, the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from seven Federal agencies, including the FTC, to the Bureau of Consumer Financial Protection (“CFPB”) as of July 21, 2011. This transfer to the CFPB included most provisions of Subtitle A of Title V of the GLB Act, with respect to financial institutions described in Section 504 of the GLB Act. Pursuant to the GLB Act, only the FTC retains rulemaking authority for its GLB Privacy Rule, 16 CFR § 313, for motor vehicle dealers predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both. The CFPB implemented its own regulations to enforce the Dodd-Frank provisions, including Privacy of Consumer Financial Information (Regulation P), 12 CFR § 1016.

Contemporaneous with that issuance, the CFPB and FTC each have previously submitted to OMB, and received its approval for, the agencies’ respective burden estimates reflecting their overlapping enforcement jurisdiction. The FTC supplemented its estimates for the enforcement authority exclusive to it regarding the class of motor vehicle dealers noted above. Following the preliminary background information, the discussion in response to Specification #12 below continues that analytical framework with appropriate updates.

(3) Information Technology

The Rule gives explicit examples of electronic options that financial institutions may use to transmit the privacy and opt-out notices required by the Rule. *See, e.g.*, 16 CFR § 313.9(b), (c), (e). The FTC, together with the other federal financial agencies, adopted a model privacy form that financial institutions may rely on as a safe harbor to provide disclosures under each agency’s GLB privacy rules. The model privacy form was available for use beginning in January 2010 and remains the only safe harbor currently available for compliance with such privacy rules. 74 Fed. Reg. 62,890 (Dec. 1, 2009).

In order to ease the burden on entities that wanted to adopt the new model privacy form, the agencies developed an “Online Form Builder” that an entity can download and use to develop and print customized versions of a model consumer privacy notice. The Online Form Builder is available with several options. Easy-to-follow instructions for the form builder will guide an institution to select the version of the model form that fits its practices, such as whether the institution provides an opt-out for consumers. The agencies announced the availability of this tool, which can be found at <http://www.ftc.gov/news-events/press-releases/2010/04/federal-regulators-release-model-consumer-privacy-notice-online>.

These electronic options help minimize the burden and cost of the Rule’s information collection requirements for financial institutions subject to the Rule, and are consistent with the objectives of the Government Paperwork Elimination Act. *See* Pub. L. 105-277, Div. C, Title XVII, 112 Stat. 2681, 2681-749, *reprinted in* 44 U.S.C. § 3504 note.

³ Public Law 111–203, 124 Stat. 1376 (2010).

(4) Efforts to Identify Duplication

Any inconsistent state notice requirement would be preempted by federal law unless it provided greater protection. 15 U.S.C. § 6807. Further, the Rule provides, as required under 15 U.S.C. § 6803(c)(4), that the financial institution’s initial and annual notices include any disclosures required under Section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(d)(2)(A)(iii), thereby incorporating, but not duplicating, a pre-existing disclosure obligation to consumers.

(5) Efforts to Minimize Small Organization Burden

The Commission drafted the Rule to minimize the compliance burden as much as possible. As noted above, the notice requirements are expressly mandated by the GLBA. The Rule implements these requirements by providing guidance on the contents of such notices while affording small businesses (and all other regulated businesses) some flexibility in choosing the means to disseminate such notices. For example, the required notices may, depending upon the circumstances, be disclosed by hand-delivery, conventional, or electronic mail. 16 CFR § 313.9(b)(1).⁴

The GLBA Rule also gives regulated parties clear guidance on the contents of the required notices. This guidance, staff believes, will help eliminate much of the administrative and legal costs that might be incurred by businesses seeking to determine what must be included in a notice in order to comply with the Rule. Finally, as also noted above, the agencies developed an “Online Form Builder” to further ease the burden on regulated parties, which affected entities can download and use to develop and print customized versions of a model consumer privacy notice.

(6) Consequences of Conducting Collection Less Frequently

While the Rule allows some flexibility in the means of disseminating the required notices, the frequency of “collection” is set by the statutory language of the GLBA. *See* Sections 502(a) - (b), 503(a) of the GLBA.

(7) Circumstances Requiring Collection Inconsistent With Guidelines

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

(8) Public Comments/Consultation Outside the Agency

The Commission initially sought public comment on the various aspects of the Rule,

⁴ In May 2014, the CFPB proposed changes to the annual notice requirement to enable financial institutions to satisfy the notice requirement through alternative means. *See* 79 FR 27214 (May 13, 2014). Commission staff are currently evaluating the proposed rulemaking and, if the CFPB issues a final rule, the Commission will consider changes to the Privacy Rule.

including its PRA implications, in its notice of proposed rulemaking. 65 Fed. Reg. 11,174, 11,188 (March 1, 2000). It addressed the comments received when it published the final version of the Rule. 65 Fed. Reg. 33,646, 33,677 (May 24, 2000). As noted in the latter publication, the Commission did not receive any comments that necessitated modifying the burden estimates presented with the proposed rule. Moreover, as required by the GLBA, staff had consulted with the other affected federal agencies on drafting the proposed rule, seeking to achieve clarity, consistency, and comparability among their respective rules implementing the GLBA. *See* Section 504(a)(2) of the GLBA. Subsequently, the FTC has sought public comment at three-year intervals each time it has submitted a proposal to OMB to extend its PRA clearance for the Rule.

The FTC has again sought public comment on its request to OMB for a three-year extension of the current PRA clearance for the information collection aspects of the Rule, as required by 5 CFR § 1320.8(d). *See* 79 Fed. Reg. 35,158 (June 19, 2014). No comments were received. The FTC is providing a second opportunity for public comment while seeking OMB approval to extend the existing PRA clearance for the Rule.

(9) Payments or Gifts to Respondents

Not applicable.

(10) & (11) Assurances of Confidentiality/Matters of a Sensitive Nature

The requirements for which the Commission seeks renewed OMB clearance do not involve disclosure of confidential respondent or customer information but, rather, the disclosure of financial institutions' practices regarding collection and sharing of consumer and customer nonpublic personal information. This is done with a view toward safeguarding consumer privacy and/or enhancing their understanding of what nonpublic personal information respondents may share with other institutions.

(12) Estimated Annual Hours Burden

Estimated annual hours burden: 1,515,050 annual hours (FTC portion)

As noted in previous burden estimates for the GLB Privacy Rule, determining the PRA burden of the Rule's disclosure requirements is very difficult because of the highly diverse group of affected entities, consisting of financial institutions not regulated by a Federal financial regulatory agency. *See* 15 U.S.C. § 6805 (committing to the Commission's jurisdiction entities that are not specifically subject to another agency's jurisdiction).

The burden estimates represent the FTC staff's best assessment, based on its knowledge and expertise relating to the financial institutions subject to the Commission's jurisdiction under this law. To derive these estimates, staff considered the wide variations in covered entities. In some instances, covered entities may make the required disclosures in the ordinary course of business, apart from the GLB Privacy Rule. In addition, some entities may use highly automated means to provide the required disclosures, while others may rely on methods requiring more manual effort. The burden estimates shown below include the time that may be necessary to train

staff to comply with the regulations. These figures are averages based on staff's best estimate of the burden incurred over the broad spectrum of covered entities.

Staff estimates that the number of entities each year that will address the GLB Privacy Rule for the first time will be 5,000 and the number of established entities already familiar with the Rule will be 100,000. While the number of established entities familiar with the Rule would theoretically increase each year with the addition of new entrants, staff retains its estimate of established entities for each successive year given that a number of the established entities will close in any given year, and also given the difficulty of establishing a more precise estimate.

Staff believes that the usage of the model privacy form and the availability of the form builder simplify and automate much of the work associated with creating the disclosure documents for new entrants. Staff thus estimates 1 hour of clerical time and 2 hours of professional/technical time per new entrant.

For established entities, staff similarly believes that the usage of the model privacy form and the availability of the Online Form Builder reduces the time associated with the modification of the notices. Staff thus estimates 7 hours of clerical time and 3 hours of professional/technical time per respondent. Staff estimates that no more than 1% of the estimated 100,000 established-entity respondents would make additional changes to privacy policies at any time other than the occasion of the annual notice.

The complete burden estimates for new entrants and established entities are detailed in the charts below.

Annual start-up hours and labor costs for all new entrants (Table IA):

Event	Hourly wage and labor category*	Hours per respondent	Approx. number of respondent	Approx. total annual hrs.	Approx. total labor costs
Reviewing internal policies and developing GLBA-implementing instructions **.	\$41.82 Professional/Technical	20	5,000	100,000	\$4,182,000
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	\$16.78 Clerical	1	5,000	5,000	83,900
	\$41.82 Professional/Technical	2	5,000	10,000	418,200
Disseminating initial disclosure (including opt-out notices).	\$16.78 Clerical	15	5,000	75,000	1,258,500
	\$41.82 Professional/Technical	10	5,000	50,000	2,091,000
Total				240,000	\$8,033,600

*Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on mean wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (e.g., compliance evaluation and/or planning, designing and producing notices, reviewing and updating information systems), and clerical time (e.g., reproduction tasks, filing, and, where applicable to the given event, typing or mailing) respectively. See BLS Occupational Employment and Wages, May 2013, Table 1 at <http://www.bls.gov/news.release/pdf/ocwage.pdf>. Labor cost totals reflect solely that of the commercial entities affected. Staff estimates that the time required of consumers to respond affirmatively to respondents' opt-out programs (be it manually or electronically) would be minimal.

**Reviewing instructions includes all efforts performed by or for the respondent to: determine whether and to what extent the respondent is covered by an agency collection of information, understand the nature of the request, and determine the appropriate response (including the creation and dissemination of documents and/or electronic disclosures).

Burden hours and costs for all established entities (Table IB):

Burden for established entities already familiar with the Rule predictably would be less than for new entrants because start-up costs, such as crafting a privacy policy, are generally one-time costs and have already been incurred. Staff's best estimate of the average burden for these entities is as follows:

Event	Hourly wage and labor category*	Hours per respondent	Approx. number of respondents**	Approx. total annual hrs.	Approx. total labor costs
Reviewing GLBA-implementing policies and practices.	\$41.82 Professional/Technical	4	70,000	280,000	\$11,709,600
Disseminating annual disclosure.	\$16.78 Clerical	15	70,000	1,050,000	17,619,000
	\$41.82 Professional/Technical	5	70,000	350,000	14,637,000
Changes to privacy policies and related disclosures.	\$16.78 Clerical	7	1,000	7,000	117,460
	\$41.82 Professional/Technical	3	1,000	3,000	125,460
Total				1,690,000	\$44,208,520

*Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on mean wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (e.g., compliance evaluation and/or planning, designing and producing notices, reviewing and updating information systems), and clerical time (e.g., reproduction tasks, filing, and, where applicable to the given event, typing or mailing) respectively. See BLS Occupational Employment and Wages, May 2013, Table 1 at <http://www.bls.gov/news.release/pdf/ocwage.pdf>. Labor cost totals reflect solely that of the affected commercial entities. Consumers have a continuing right to opt out, as well as a right to revoke their opt-out at any time. When a respondent changes its information sharing practices, consumers are again given the opportunity to opt out. Again, staff assumes that the time required of consumers to respond affirmatively to respondents' opt-out programs (be it manually or electronically) would be minimal.

**The estimate of respondents is based on the following assumptions: (1) 100,000 established respondents, approximately 70% of whom maintain customer relationships exceeding one year, (2) no more than 1% (1,000) of whom make additional changes to privacy policies at any time other than the occasion of the annual notice; and (3) such changes will occur no more often than once per year.

As calculated above, the total annual PRA burden hours and labor costs for all affected entities in a given year would be 1,930,000 hours and \$52,242,120, respectively.

The FTC now carves out from these overall figures the burden hours and labor costs associated with motor vehicle dealers. This is because the CFPB does not enforce the GLB

Privacy Rule for those types of entities. We estimate the following:

**Annual start-up hours and labor costs for new entrants – motor vehicle dealers only
(Table IIA):**

Event	Hourly wage and labor category	Hours per respondent	Approx. number of respondents (Table IA inputs x 0.57) **	Approx. total annual hrs.	Approx. total labor costs
Reviewing internal policies and developing GLBA-implementing instructions **.	\$41.82 Professional/Technical	20	2,850	57,000	\$2,383,740
Creating disclosure document or electronic disclosure (including initial, annual, and opt out disclosures).	\$16.78 Clerical	1	2,850	2,850	47,823
	\$41.82 Professional/Technical	2	2,850	5,700	238,374
Disseminating initial disclosure (including opt out notices).	\$16.78 Clerical	15	2,850	42,750	717,345
	\$41.82 Professional/Technical	10	2,850	28,500	1,191,870
Total				136,800	\$4,579,152

**Multiply the number of respondents from the comparable table above on all new entrants by the following allocation (60,000/105,000) = 0.57. The number in the denominator represents the total of the FTC's existing GLB Rule estimates for new entrants (5,000) and established entities (100,000). The numerator represents an estimate of motor vehicle respondents. For this category, Commission staff relied on the following industry estimates: 17,635 new car dealers per [National Automobile Dealers Association](#) data (2013) and 35,000 independent/used car dealers per [National Independent Automobile Dealers Association](#) data (2012), respectively, multiplied by an added factor of 1.10 to cover for an unknown quantity of additional motor vehicle dealer types (motorcycles, boats, other recreational vehicles) also covered within the definition of "motor vehicle dealer" under section 1029(a) of the Dodd-Frank Act.

**Annual burden hours and labor costs for all established entities – motor vehicle dealers only
(Table IIB):**

Event	Hourly wage and labor category*	Hours per respondent	Approx. number of respondents** (Table IB inputs x 0.57)	Approx. total annual hrs.	Approx. total labor costs
Reviewing GLBA-implementing policies and practices.	\$41.82 Professional/Technical	4	39,900	159,600	\$6,674,472
Disseminating annual disclosure.	\$16.78 Clerical	15	39,900	598,500	10,042,830
	\$41.82 Professional/Technical	5	39,900	199,500	8,343,090
Changes to privacy policies and related disclosures.	\$16.78 Clerical	7	570	3,990	66,952
	\$41.82 Professional/Technical.	3	570	1,710	71,512
Total				963,300	\$25,198,856

The FTC's portion of the annual hourly burden would be $1,100,100 \text{ hours} + ((1,930,000 - 1,100,100) / 2) = 1,515,050$ annual hours. The FTC's portion of the annual cost burden would be $\$29,778,008 + \$((52,242,120 - 29,778,008) / 2) = \$41,010,064$.

(13) Estimated Capital/Other Non-Labor Costs Burden

Staff believes that capital or other non-labor costs associated with the document requests are minimal. Covered entities will already be equipped to provide written notices (*e.g.*, computers with word processing programs, copying machines, mailing capabilities). Most likely, only entities that already have online capabilities will offer consumers the choice to receive notices via electronic format. As such, these entities will already be equipped with the computer equipment and software necessary to disseminate the required disclosures via electronic means.

(14) Estimate of Cost to Federal Government

Over the course of the three-year clearance period sought, enforcing and administering GLB Privacy Rule will require the cumulative expenditure per year of approximately five attorney/investigator work years (approximately \$72,000 per employee) for a total of \$360,000 in labor costs. In addition, staff estimates that associated travel costs, clerical, and other support services will total approximately \$20,000 per year. Thus, the annualized approximate cost to the Commission is \$380,000.

(15) Program Changes or Adjustments

Staff has slightly adjusted downward the FTC portion of the annual burden costs from 1,524,700 (2012) to 1,515,050 annual hours (2014).

(16) Statistical Use of Information

There are no plans to publish information associated with the Rule's requirements for statistical use.

(17) Display of Expiration Date for OMB Approval

Not applicable.

(18) Exceptions to Certification

Not applicable.