CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
ELECTRONIC FUND TRANSFER ACT (REGULATION E) 12 CFR 1005
(OMB CONTROL NUMBER: 3170-0014 / RIN 3170-AA22 – PROPOSED RULE)

OMB TERMS OF CLEARANCE: Once the rulemaking for other portions of Regulation E is complete, the burden numbers in the next renewal for this collection should be based on CFPB analysis, not on those inherited from other agencies.

Since OMB imposed the terms of clearance, the Bureau has engaged in research on the costs of regulatory compliance and continues to study these costs. The Bureau has also conducted industry outreach and analysis regarding the costs of compliance with the below proposed requirements under Regulation E. The burden numbers for the below proposed requirements reflect the Bureau's research, outreach and analysis to date.

ABSTRACT: The Electronic Fund Transfer Act (EFTA), 15 U.S.C. 1693 et seq., requires accurate disclosure of the costs, terms, and rights relating to electronic fund transfer (EFT) services and remittance transfer services to consumers. Entities offering EFT services must provide consumers with full and accurate information regarding consumers' rights and responsibilities in connection with EFT services. These disclosures are intended to protect the rights of consumers using EFT services, such as automated teller machine (ATM) transfers, telephone bill-payment services, point-of-sale transfers at retail establishments, electronic check conversion, payroll cards, and preauthorized transfers from or to a consumer's account. EFTA also establishes error resolution procedures and limits consumer liability for unauthorized transfers in connection with EFT services. EFTA and Regulation E impose disclosure and other requirements on issuers and sellers of gift cards, gift certificates, and general-use prepaid cards. Further, EFTA and Regulation E were recently amended to provide protections for consumers in the United States who send remittance transfers to persons in a foreign country. Federal agencies and private litigants use the records to ascertain whether accurate and complete disclosures of EFT services and other services covered under Regulation E have been provided and other required actions (for example, error resolution and limitation of consumer liability for unauthorized transfers) have been taken. This information will provide the primary evidence of law violations in EFTA enforcement actions brought by the CFPB and other Federal agencies. Without recordkeeping requirements of Regulation E, the Federal agencies' ability to enforce the EFTA would be significantly impaired. Consumers rely on the disclosures required by EFTA and Regulation E to facilitate informed EFT, gift card, and remittance transfer decision making. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of the transactions offered. Also, without the special error resolution and limitation of consumer liability provisions, consumers would be unable to detect and correct unauthorized transfers and errors in their EFT and remittance transfer transactions. These disclosures and provisions are also necessary for the agencies to enforce EFTA and Regulation E.

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

The Electronic Fund Transfer Act (EFTA), 15 U.S.C. 1693 *et seq*., requires accurate disclosure of the costs, terms, and rights relating to electronic fund transfer (EFT) services and remittance transfer services to consumers. Entities offering EFT services must provide consumers with full and accurate information regarding consumers' rights and responsibilities in connection with EFT services. These disclosures are intended to protect the rights of consumers using EFT services, such as automated teller machine (ATM) transfers, telephone bill-payment services, point-of-sale transfers at retail establishments, electronic check conversion, and preauthorized transfers from or to a consumer's account. The EFTA also establishes error resolution procedures and limits consumer liability for unauthorized transfers in connection with EFT services. The EFTA and Regulation E impose disclosure and other requirements on issuers and sellers of gift cards, gift certificates, and general-use prepaid cards. Further, the EFTA and Regulation E were recently amended to provide protections for consumers in the United States who send remittance transfers to persons in a foreign country. The Bureau has further proposed to extend these protections to prepaid accounts.

Historically, the EFTA was implemented in Regulation E by the Board of Governors of the Federal Reserve System (Board), 12 CFR Part 205. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 111-203,124 Stat. 1376 (2010) transferred rulemaking authority for the EFTA to the Bureau of Consumer Financial Protection (CFPB or the Bureau), effective July 21, 2011. On December 27, 2011, the CFPB republished Regulation E in 12 CFR part 1005, making technical and conforming changes to reflect the transfer of authority and certain other changes made by the Dodd-Frank Act. Section 1073 of the Dodd-Frank Act gave the CFPB a statutory deadline to issue a final rule implementing the amendments to EFTA concerning remittance transfers. This final rule was published in the *Federal Register* on February 7, 2012 (February Final Rule). On August 20, 2012, the Bureau published a supplemental final rule adopting a safe harbor for determining which companies do not send remittance transfers in the normal course of business and addressing remittance transfers scheduled before the date of transfer (August Final Rule, and collectively with the February Final Rule, the 2012 Final Rule). The CFPB has amended subpart B of Regulation E on several occasions.

Under the Dodd-Frank Act, in addition to the transfer of rulemaking authority, the CFPB received certain enforcement authorities with respect to the EFTA. The EFTA also contains a private right of action with a one-year statute of limitations for aggrieved consumers.

Recordkeeping

Section 1005.13(b) of Regulation E requires entities subject to the EFTA to retain evidence of their compliance with the regulation for not less than two years. Regulation E also provides that any entity subject to the EFTA that is notified by the CFPB (or other administrative agency) that it is being investigated or is the subject of an enforcement proceeding, or that has been notified of a private or criminal action being filed, shall retain the records that pertain to the investigation, action, or proceeding until final disposition of the matter, or such earlier time as allowed by a court or agency order. The recordkeeping requirement insures that records that might contain evidence of violations of the EFTA remain available to Federal agencies, as well as to private litigants.

In addition, section 1005.33(g)(2) of Regulation E requires that the policies and procedures concerning error resolution of remittance transfer providers include provisions regarding the retention of documentation related to error investigations. Remittance transfer providers must retain evidence of this compliance for two years.

Disclosure

The vast majority of Regulation E's disclosure requirements are statutorily mandated by the EFTA. *See, e.g.*, initial disclosures, 12 CFR 1005.7, 15 U.S.C. 1693c(a), 1005.18(c)(1); change in terms, 12 CFR 1005.8, 15 U.S.C. 1693c(b); receipts at electronic terminals, 12 CFR 1005.9(a), 15 U.S.C. 1693d(a); periodic statements, 12 CFR 1005.9(b), 15 U.S.C. 1693c; certain preauthorized transfer requirements 12 CFR 1005.10, 15 U.S.C. 1693e; certain error resolution requirements, 12 CFR 1005.11, 15 U.S.C. 1693f; and disclosures for remittance transfers, 12 CFR 1005.31, 15 U.S.C. 1693o-1. The CFPB has issued model forms and clauses that can be used to comply with some of the written disclosure requirements of the EFTA and Regulation E. *See* Appendix A to Regulation E. Correct use of these model forms and clauses protects entities from liability for the respective requirements under the EFTA and Regulation E. *Id.* The Bureau proposes additional requirements for prepaid accounts pursuant to its authority under the EFTA and the Dodd-Frank Act. *See* 12 CFR 1005.15(c) and 12 CFR 1005.18(b).

In November 2014, the Bureau proposed changes to apply Regulation E to prepaid accounts in general and to require providers to make available to consumers disclosures before a consumer agrees to acquire a prepaid account in particular. The proposal would also adopt12 CFR 1005.19(b) requiring prepaid issuers to post agreements for prepaid accounts on their websites and to submit the agreements to the Bureau. The proposal would also expand the account opening requirements in 12 CFR 1005.7(b)(5) as applied to prepaid accounts to require the disclosure of all fees related to the prepaid account, not just fees for EFTs.

2. <u>Use of the Information</u>

Federal agencies and private litigants use the records to ascertain whether accurate and complete disclosures of EFT services and other services covered under Regulation E have been provided and other required actions (for example, error resolution and limitation of consumer liability for unauthorized transfers) have been taken. This information will provide the primary evidence of law violations in EFTA enforcement actions brought by the CFPB and other Federal agencies. Without recordkeeping requirements of Regulation E, the Federal agencies' abilities to enforce the EFTA would be significantly impaired. Consumers rely on the disclosures required by the EFTA and Regulation E to facilitate informed EFT decision making. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of the products offered. Also, without the special error resolution and limitation of consumer liability provisions, consumers would be unable to detect and correct unauthorized transfers and errors in their EFT and remittance transfer transactions. These disclosures and provisions are also necessary for the enforcement agencies to enforce the EFTA and Regulation E.

3. Use of Information Technology

Regulation E provides rules to establish uniform standards for using electronic communication to deliver disclosures required under Regulation E, within the context of the Electronic Signatures in Global and National Commerce Act (ESIGN), 15 U.S.C. 7001(c), *et seq*. 72 FR 63452 (Nov. 9, 2007). These rules enable businesses to use electronic disclosures, consistent with the requirements of ESIGN, which became effective on Oct. 1, 2000. 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 E, by enabling businesses to utilize more efficient electronic media for disclosures and compliance. In certain circumstances and pursuant to the Bureau's prepaid account proposal, Regulation E would permit electronic disclosure in situations that may not be compliant with ESIGN.

Regulation E also permits entities to retain records on any method capable of accurately retaining and reproducing information. Business entities need only retain evidence demonstrating that their procedures reasonably ensure the consumer's receipt of required disclosures and documentation; the entity need not retain records that disclosures and documentation were given to each consumer. Comment 1005.13(b)-1.

In addition, due to the nature of electronic fund transfers, most entities that use such transfers and are covered by the EFTA also use computer support and various electronic means to facilitate generation of the mandated disclosures, thereby limiting burden.

4. Efforts to Identify Duplication

The recordkeeping requirement of Regulation E preserves the information an affected entity uses in making disclosures and taking other required actions regarding EFT and other services covered under Regulation E. The entity is the only source of this information. No other federal law mandates its retention, although some states may have similar requirements.

Similarly, covered entities are the only source of the information contained in the disclosures required by the EFTA and Regulation E. No other federal law mandates these disclosures. State laws do not duplicate these requirements, although some states may have other rules applicable to EFT and other services covered under Regulation E. There may, however, be financial institutions that are also issuers under Regulation Z that would be required to submit account agreements to the Bureau twice, once pursuant to 12 CFR 1005.19(b) and also pursuant to 12 CFR 1026.58(c). The Bureau has not yet developed submission methods for prepaid account agreements. The Bureau will make efforts to streamline and harmonize submission requirements to avoid duplication, if possible. The Bureau solicited comment on duplicate submission in the proposal and expects to revisit this issue in its final rule.

5. Efforts to Minimize Burdens on Small Entities

As discussed above, the Bureau's proposal would impose the Regulation E recordkeeping and

disclosure requirements that are mandated by EFTA, the Dodd-Frank Act, and Regulation E on financial institutions and entities offering EFT and other services in connection with prepaid accounts, which, pursuant to the proposal, would be covered under Regulation E. The recordkeeping requirement is mandated by Regulation E. The existing disclosure requirements are mandated by the EFTA and/or Regulation E.

Most entities offering EFT and other services in connection with prepaid accounts today utilize some degree of computerization in their businesses, which further assists in facilitating compliance with Regulation E. Additionally, as noted above, Regulation E provides, and the proposal would also include, model and sample forms that may be used to aid compliance with many of its requirements. Correct use of these forms insulates a financial entity from liability from the respective requirements.

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

Information collection pursuant to Regulation E is triggered by specific events, and disclosures must be provided to consumers within the time periods established by the law and regulation. The current record retention period of two years supports the one-year statute of limitations for private actions, and the CFPB's need for sufficient time to bring enforcement actions regarding EFT transactions. If the retention period were shortened, consumers who sue under the EFTA, and the administrative agencies that enforce the EFTA, might find that the records needed to prove EFTA violations no longer exist.

As noted, the current and proposed disclosure requirements are needed to foster informed EFT decision-making for prepaid accounts and to identify errors and unauthorized transfers. Without these requirements, consumers would not have access to this critical information, their right to sue under the EFTA would be undermined, and the CFPB and other administrative agencies charged with enforcing the EFTA could not fulfill their mandates.

7. Circumstances Requiring Special Information Collection

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

8. Consultation Outside the Agency

In accordance with 5 CFR 1320.11, the Bureau has published a notice of proposed rulemaking in the *Federal Register* inviting the public to comment on the information collection requirements contained in the proposed rule. Comments received in response to the notice of proposed rulemaking will be addressed in the preamble to the final rule.

9. Payments or Gifts to Respondents

Not applicable.

10. Assurances of Confidentiality

Some of the required recordkeeping and disclosures contain private financial information about consumers who use EFT services. Such information 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 that contain private financial information that are provided to the CFPB would be covered by the protections of 12 CFR 1070.40 *et seq.*, section 1022(c) of the Dodd-Frank Act, and by the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), as applicable. The account agreements that would be collected pursuant to proposed § 1005.19(b) would not contain any confidential information.

11. Justification for Sensitive Questions

This information collection contains no questions of a sensitive nature, as defined by OMB guidelines.

12. Estimated Burden of Information Collection for Bureau Respondents

Total Hours: 4,035,332[1]

Total Associated Labor Costs: $119,598,708

CFPB's burden, By Information Collection

	Number of respondents	*Estimated annual frequency*	*Average time per response*	*Estimated annual burden hours*
Transaction Receipts	100,000	40	1.2 minutes	80,000
Change in Terms	100,000	10	16.5 minutes	275,000
Payroll Disclosures	600,000	1	90 minutes	900,000
Recordkeeping	600,000	1	58.3 minutes	583,000
Error Resolution	100,000	10	3.96 minutes	66,000

[1] This number includes (1) the 1,904,000 hours that the Bureau obtained from other Federal agencies as part of its "restatement of Regulation E"; (2) the 631,000 hours of one-time burden and 1,468,000 hours of ongoing burden estimated for the Final Rule; (3) the 2,122 hours of one-time burden estimated for the August Final Rule; (4) the 19,695 hours of one time burden and the reduction of 10,494 hours in on-going burden from the 2013 Final Rule; and (5) the 16,538 hours of one-time burden and 4,494 hours of ongoing burden estimated for the Proposed Rule for Prepaid Accounts.

Maintenance and Error Resolution, depository institutions (ongoing)	153	1	350.75 hours	53,664
Maintenance and Error Resolution, non-depository institutions (ongoing)	33,500	1	41.905 hours	1,403,818
Proposed Short Form Disclosure, depository institutions (ongoing)	18	2	552 minutes	331
Proposed Short Form Disclosure, non-depository institutions (ongoing)	142	2	276 minutes	1,306
Proposed Error Resolution, depository institutions (ongoing)	2	281	30 minutes	281
Proposed Error Resolution, non-depository institutions (ongoing)	18	281	15 minutes	1,265
Proposed Quarterly Submission of Agreements, depository institutions (ongoing)	36	4	480 minutes	1,152
Proposed Quarterly Submission of Agreements, non-depository institutions (ongoing)	10	4	240 minutes	160
System and Policy Updates, February Final Rule, depository institutions (one time)	155	1	206.5 hours	31,809
System and Policy Updates, February Final Rule, non-depository institutions (one time)	3,000	1	200 hours	600,000
System and Policy Updates, August Final Rule (one time)	500	1	2.6 hours	1,313
System and Policy Updates, 2013 Final Rule depository institutions (one time)	153	1	65 hours	9,945

System and Policy Updates, 2013 Final Rule, non- depository institutions (one time)	300	1	32.5 hours	9,750
Proposed Short Form Disclosure, depository institutions (one time)	18	1	92 hours	1,656
Proposed Short Form Disclosure, non-depository institutions (one time)	142	1	46 hours	6,532
Proposed Long Form Disclosure, depository institutions (one time)	18	1	18.4 hours	331
Proposed Long Form Disclosure, non-depository institutions (one time)	142	1	9.2 hours	1,306
Proposed Access to Prepaid Account Information, depository institutions (one time)	18	1	55.2 hours	994
Proposed Access to Prepaid Account Information, non-depository institutions (one time)	142	1	27.6 hours	3,919
Proposed Error Resolution, depository institutions (one time)	2	1	14.9 hours	30
Proposed Error Resolution, non-depository institutions (one time)	18	1	7.45 hours	134
Proposed Quarterly Submission of Account Information, depository institutions (one time)	36	1	40 hours	1440
Proposed Quarterly Submission of Account Information, non-depository institutions (one time)	10	1	20 hours	200
Total				4,035,332[2]

[2] Individual entries may not sum to total due to rounding.

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.

Prior to the passage of the Dodd-Frank Act, the ongoing recordkeeping and disclosure burdens for Regulation E allocated to the prudential regulators and the FTC were approximately 5,596,000 hours.[3] In light of the changes made by the Dodd-Frank Act, the Bureau assumed roughly 1,904,000 hours of that burden. Specifically, CPPB assumed burden for depository institutions with total assets of more than $10 billion and their depository institution affiliates for which the CFPB now has primary enforcement authority with respect to Regulation E. Because the CFPB and the Federal Trade Commission (FTC) generally both have enforcement authority over non-depository institutions subject to Regulation E, the CFPB also assumed half of the Federal Trade Commission (FTC) burden for non-depository institutions after subtracting the burden which the FTC has attributed to itself for motor vehicle dealers, where applicable.[4]

February Final Rule (Remittance Transfers)

In the February Final Rule, the Bureau estimated that the 155 large depository institutions and credit unions (including their depository and credit union affiliates) supervised by the Bureau would take, on average, 120 hours (three business weeks) to update their systems to comply with the disclosure requirements addressed in § 1005.31. This one-time revision increased the burden by 18,600 hours. These respondents take, on average, 40 hours (one business week) to develop written policies and procedures designed to ensure compliance with respect to the error resolution requirements applicable to remittance transfers under § 1005.33. This one-time revision increased the burden by 6,200 hours. These respondents take, on average, 40 hours (one business week) to establish policies and procedures for agent compliance as addressed under § 1005.35. This one-time revision increased the burden by 6,200 hours. In summary, the Bureau estimated the rule imposed a one-time increase in the estimated annual burden on the 155 large depository institutions and credit unions supervised by the Bureau of 31,000 hours. The Bureau estimated that the rule imposed a one-time annual burden on 6,000 non-depository money transmitters (500 networks and 5,500 agents) of 200 hours. This one-time revision increased the burden by 1,200,000 hours total for all agencies. The Bureau allocated itself 600,000 hours

[3] In applying for its initial approval from OMB for this control number under an emergency clearance, the CFPB relied on the estimates previously developed by the Board, OCC, OTS, FDIC, NCUA, and FTC concerning the number of entities subject to Regulation E and the hours of paperwork burden under the statute (for a detailed breakdown of the burden estimates of the prudential regulators and the FTC, please reference the other agencies' supporting statements for Regulation E, which can be found at www.reginfo.gov). The 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 those cases, CFPB estimated the relevant figures based on data provided by the OCC and in some cases by the Board.

[4] 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.

from this total. The total one-time burden allocated to the Bureau was therefore 631,000 hours.[5]

On a continuing basis, the Bureau estimated that the 155 large depository institutions and credit unions (including their depository and credit union affiliates) supervised by the Bureau take, on average, approximately 8 hours (one business day) monthly to maintain their systems to comply with the disclosure requirements under § 1005.31. This increased the ongoing annual burden by 14,880 hours. The Bureau estimates on average 262,500 consumers would spend 5 minutes in order to provide a notice of error as required under section 1005.33(b). The Bureau estimated that 155 respondents supervised by the Bureau would take, on average, approximately 12 hours (monthly) to address a sender's notice of error as required by § 1005.33(c)(1). This increased the ongoing burden by 21,875 hours as well. The Bureau estimated that the 155 respondents would take, on average, 8 hours (one business day) annually to maintain written policies and procedures designed to ensure compliance with respect to the error resolution requirements applicable to remittance transfers under § 1005.33. This increased the ongoing burden by 1,240 hours. These respondents take, on average, 8 hours (one business day) annually to maintain policies and procedures for agent compliance under § 1005.35. This increased the ongoing burden by 1,240 hours. In summary, the February Final Rule increased the estimated ongoing annual burden on the 155 respondents supervised by the Bureau by approximately 61,000 hours.

The Bureau estimated that the February Final Rule would impose an ongoing annual burden on 67,000 non-depository money transmitters of 42 hours. This increased the ongoing annual burden by 2,814,000 hours. The Bureau allocated itself 1,407,000 hours from this total. The total ongoing annual burden allocated to the Bureau was therefore 1,468,000 hours.[6]

August Final Rule (Remittance Transfers)

The August Final Rule provided a safe harbor and additional flexibility with respect to certain provisions of the February Final Rule that respondents may use at their option in order to reduce their overall compliance burden. In addition, there is an additional requirement to disclose the date of the transfer in disclosures provided for certain types of remittance transfers, as well as additional information relating to cancellation for a smaller subset of these transfers.

The Bureau expects that the amount of time required to implement the information collection requirements for a given institution may vary based on the size and complexity of the respondent as well as whether the respondent qualifies for and elects to use the safe harbors or additional flexibility provided by certain provisions.

The August Final Rule included a safe harbor clarifying when a respondent does not provide remittance transfers in the normal course of business for purposes of determining whether a person is a "remittance transfer provider" and therefore must comply with (and assume the burdens associated with) subpart B of Regulation E. For the purpose of its PRA analysis, the Bureau assumes that none of its respondents qualify for the safe harbor, and therefore the safe harbor has no effect on the burden incurred by Bureau respondents.

[5] 31,000+600,000 hours.
[6] 61,000+1,407,000 hours.

The August Final Rule included two provisions that potentially affect the number of disclosures made in connection with certain transfers. In both cases, the provisions permit additional flexibility that respondents may use at their option. One provision potentially increases the number of disclosures made. In the August Final Rule, § 1005.32(b)(2) permits disclosures required to be provided prior to or when payment is made to contain estimates in certain cases for remittance transfers scheduled five or more days before the date of the transfer, including preauthorized remittance transfers. If a remittance transfer provider gives disclosures that include estimates under this provision, the August Final Rule requires that the provider later give senders receipts with accurate figures (unless providers are permitted to provide estimates under a statutory exception, in which case the receipt may include estimates consistent with the applicable exception). A second provision potentially decreases the number of disclosures made. The August Final Rule eliminates the requirement that remittance transfer providers mail or deliver a pre-payment disclosure a reasonable time prior to each subsequent preauthorized remittance transfer.[7] The Bureau does not know how many respondents will elect to use the additional flexibility provided by these provisions. Therefore, the Bureau assumes that these two provisions, taken together, do not affect respondent burden for the purpose of this PRA analysis.

Some information requirements involve the modification of existing disclosures (or permit providers to comply by modifying existing disclosures) with respect to the cancellation period.[8] The Bureau assumes that no ongoing burden is incurred by respondents from the modification of a disclosure otherwise required by the February Final Rule. The Bureau assumes that the alteration of existing disclosures is generally included in the one-time burden and does not affect ongoing burden. The burden associated with updating systems to comply with disclosure requirements is generally included in the burden attributed to the February Final Rule but may involve a modest, incremental one-time cost. Given that these provisions involve the modification of disclosures, the Bureau assumes these modifications are performed by money transmitters and not their agents.

The August Final Rule requires that the date of the transfer be disclosed in receipts given in association with any transfer scheduled at least three business days before the date of the transfer, as well as the first transfer in a series of preauthorized remittance transfers and any subsequent preauthorized transfer in that series for which the date of transfer is four or less business days after the date on which payment is made for that transfer.

The Bureau estimates that this provision will increase one-time burden by 616 hours for the 154 large depository institutions and credit unions (including their depository and credit union affiliates). In addition, the Bureau estimates that, for money transmitters, this provision will increase one-time burden by 1,000 hours.[9]

---

[7] However, if certain disclosed information on the receipt provided prior to the first transfer in a series of preauthorized transfers changes before the date of the transfer, the provider must provide a receipt to the consumer within a reasonable time prior to the scheduled date of the next preauthorized remittance transfer.

[8] For the purpose of computing PRA burden, the Bureau assumes that respondents needing to disclose the date of the transfer and other information in connection with subsequent preauthorized remittance transfers scheduled at least five business days from the date of the transfer will elect to modify an existing disclosure with this information. However, these respondents maintain the flexibility to disclose this information in a separate disclosure if they choose to do so.

[9] This represents the Bureau's half of the burden incurred by the 500 money transmitter respondents.

The August Final Rule also requires that, for preauthorized remittance transfers scheduled five or more business days from the date of the transfer, the remittance transfer provider disclose the date or dates on which the remittance transfer provider will execute such subsequent transfers in the series of preauthorized remittance transfers as well as additional cancellation information. The August Final Rule permits providers some flexibility in determining how these disclosures may be provided, although there are specific timing requirements.

The Bureau estimates that this provision will increase one-time burden by 616 hours for the 154 large depository institutions and credit unions (including their depository and credit union affiliates). In addition, the Bureau estimates that, for money transmitters, this provision will increase one-time burden by 1,000 hours.[10]

Additionally, the August Final Rule permits providers to describe on the same receipt both the three-business-day and 30-minute cancellation periods (the latter applying to remittance transfers scheduled fewer than three business days before the date of the transfer) and either describe the transfers to which each period applies or, alternatively, use a check box or other method to designate which cancellation period is applicable to the transfer. To the extent that programming has not yet occurred, this flexibility could result in a slightly lower cost for providers opting to use this flexibility since one receipt form must be designed.

The Bureau estimates this provision will decrease one-time burden by 616 hours for the 154 large depository institutions and credit unions (including depository and credit union affiliates). In addition, the Bureau estimates that, for money transmitters, this provision would decrease one-time burden by 1,000 hours.[11]

Finally, the Bureau estimates that respondents will incur some burden in reviewing these changes to subpart B of Regulation E. The Bureau estimates that this will result in 193 hours of one-time burden for the 154 large depository institutions and credit unions (including their depository and credit union affiliates). In addition, the Bureau estimates that, for money transmitters, this will result in 313 hours of one-time burden. [12] As a result of the August Final Rule, the Bureau estimates that one-time burden increases by 809 hours for the 154 large depository institutions and credit unions (including depository and credit union affiliates). In addition, the Bureau estimates that one-time burden for money transmitters will increase by 1,313 hours.[13]

2013 Final Rule (Remittance Transfers)

The 2013 Final Rule refines the February Final Rule and the August Final Rule in three respects. First, the 2013 Final Rule modifies the 2012 Final Rule to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution. Second and relatedly, the

[10] This represents the Bureau's half of the burden incurred by the 500 money transmitter respondents.
[11] This represents the Bureau's half of the burden incurred by the 500 money transmitter respondents.
[12] This represents the Bureau's half of the burden incurred by the 500 money transmitter respondents.
[13] This represents the Bureau's half of the burden incurred by the 500 money transmitter respondents.

2013 Final Rule also makes optional the requirement to disclose taxes collected by a person other than the remittance transfer provider. In place of these disclosures, the 2013 Final Rule requires disclaimers to be added to the rule's disclosures indicating that the recipient may receive less than the disclosed total due to such fees and taxes. Finally, the 2013 Final Rule revises the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient because the sender provided incorrect or insufficient information, and, in particular, when a sender provides an incorrect account number or recipient institution identifier which results in the transferred funds being deposited in the wrong account.

The Bureau expects that the amount of time required to implement the information collection requirements for a given institution may vary based on the size and complexity of the respondent as well as whether the respondent elects to use additional flexibility provided by certain provisions.

The Bureau assumes that all 153 insured depository institutions and credit unions that are supervised by the Bureau are remittance transfer providers and thus would potentially be affected by the 2013 Final Rule.[14] The Bureau estimates that there are approximately 300 non-depository money transmitters that offer remittance services and that may be affected by the 2013 Final Rule.[15] The Bureau estimates that insured depository institutions supervised by the Bureau would incur a one-time burden of 9,945 hours and a reduction in on-going burden of 7,344 hours per year. The Bureau estimates that non-depository money transmitters that offer remittance services would incur a one-time burden of 9,750 and a reduction in on-going burden of 3,150 per year.[16]

As noted, the 2013 Final Rule requires remittance transfer providers to add an additional disclaimer to disclosure forms in instances where non-covered third-party fees and taxes collected by a person other than the provider may apply. The Bureau believes that the cost of adding these disclaimers will be small. Affected providers will also have to reprogram systems to conform to the new

[14] The number of insured depository institutions and credit unions supervised by the Bureau declined from 155 to 153 between the time of the August Final Rule and the 2013 Final Rule.

[15] The decrease in respondents relative to the PRA analysis for the August Final Rule reflects a change in the number of insured depository institutions and credit unions supervised by the Bureau, and a revision by the Bureau of the estimated number of state-licensed money transmitters that offer remittance services. The revised estimate is based on subsequent analysis of publicly available state registration lists and other information about the business practices of licensed entities. The decrease in burden relative to what was previously reported for the August Final Rule from the revised entity counts is not included in the change in burden reported here. However, the revised entity counts are used for the purpose of calculating other changes in burden that would arise from the 2013 Final Rule. The Bureau notes that there may be other entities that are not insured depository institutions or credit unions and that serve as remittance transfer providers, such as broker-dealers or money transmission companies that are not state-licensed. The Bureau estimates that there are 162 broker-dealers that may be remittance transfer providers. The Bureau does not have an estimate of the number of other money transmission companies that may be any such entities. Furthermore, the Bureau notes that while its analysis in the February Final Rule attributed burden to the agents of state-licensed money transmitters, in this case, the Bureau expects that the changes in burden associated with this final rule would generally be borne only by money transmitters themselves, not their agents. In particular, the Bureau believes that money transmitters will generally gather and prepare recipient institution fee information centrally, rather than requiring their agents to do so. Similarly, the Bureau expects that money transmitters will generally investigate and respond to errors centrally, rather than asking their agents to take responsibility for such functions. Comment 30(f)-1 states that a person is not deemed to be acting as a remittance transfer provider when it performs activities as an agent on behalf of a remittance transfer provider.

[16] This represents the Bureau's half of the burden incurred by the 300 money-transmitter respondents.

requirements for calculating "Other Fees" (pursuant to § 1005.31(b)(1)(vi)) and the total to recipient (pursuant to § 1005.31(b)(1)(vii)). All providers will have to remove references to "Other Taxes" from their forms. The modification to existing forms and systems changes would be particularly minimal for many providers, and the Bureau expects that some providers may not have finished any systems modifications necessary to comply with the 2012 Final Rule, and thus may be able to incorporate any changes into previously planned work. The Bureau estimates that making revisions to the systems to calculate the revised "Other Fees" disclosure would take 40 hours per provider. Because the forms to be modified are existing forms, the Bureau estimates that it would require eight hours per form per provider. The Bureau notes that it did receive one comment on this determination in the December Proposal (as it pertained to revising forms to reflect changes to "Other Taxes"). The commenter indicated that it believed it would take closer to forty days, rather than eight hours, to adjust disclosures and to ensure that appropriate calculations are made and new exclusions are incorporated properly. Insofar as the disclaimers will now apply to virtually all transactions (for taxes) and all transfers to non-agent accounts, the Bureau believes that providers generally would not face a complex process of determining which disclosures must contain disclaimers. Furthermore, the Bureau believes that the commenter was not necessarily disputing the actual amount of labor required to complete the task but instead was indicating that the time to complete the task would be spread across forty days due to other considerations that would prevent the changes to the disclosure forms from being implemented within 8 hours. Thus, the Bureau stands by its initial determination of eight hours.

Due to the elimination of the requirements to disclose non-covered third-party fees and taxes collected by a person other than the provider, remittance transfer providers no longer will have to undertake to research and calculate these fees. As a result, the Bureau estimates that depository institutions would save, on average, 48 hours per year and non-depository institutions would save, on average, 21 hours per year. The Bureau cannot estimate the number of providers that will choose to provide optional disclosures of foreign taxes and non-covered third-party fees. The Bureau believes even for such providers there will be significant time savings as providers may choose to focus on heavily trafficked corridors where information may be more easily obtainable.

The Bureau expects that remittance transfer providers that send money to accounts, in order to benefit from the changes to the definition of the term error, may choose to provide senders with notice that if they provide incorrect account numbers or recipient institution identifiers, they could lose the transfer amount. Providers may also choose to maintain sufficient records to satisfy, wherever possible, the conditions enumerated in § 1005.33(h) (though no such recordkeeping is required). These enumerated conditions regard being able to demonstrate facts regarding senders' responsibility for any account number or recipient institution identifier mistake; the above-referenced notice; the results of an incorrect account number or recipient institution identifier; and the provider's effort to recover funds.

Because this will likely involve modifications to existing communications, the Bureau estimates that providing senders with the notice described above would require a one-time burden of eight hours per provider and would not generate any ongoing burden. With regard to demonstrating facts related to the conditions enumerated in § 1005.33(h), the Bureau believes that any related record retention is a usual and customary practice by providers under the 2012 Final Rule, and therefore there will be no additional burden associated with this provision. The Bureau believes that this record retention is usual and customary for several reasons. First, to the extent § 1005.33(h)(1) requires providers to document

that a mistake was made by the sender (as opposed to the provider or a third-party), the Bureau believes that most, if not all, depository institutions already retain written documentation of requests to send remittance transfers that include information provided by the sender about the transfer. Similarly, the Bureau believes that non-depository institutions similarly retain documentation that adequately documents the details of their customers' requests. As for the notice required by § 1005.33(h)(3), commenters indicated that most providers already maintain such a notice in their written materials provided to senders of remittance transfers and that institutions already retain these forms.

The Bureau also estimates that to reflect the changes regarding the scope of certain errors, remittance transfer providers would spend, on average, one hour, to update written policies and procedures designed to ensure compliance with respect to the error resolution requirements applicable to remittance transfer providers under § 1005.33(g).

2014 Proposed Rule for Prepaid Accounts

The Bureau's PRA estimation methodology assumes that one-time burden increases with the number of programs operated by a program manager.[17] Ongoing burden may increase with the number of programs, the number of customers, or both. However, both one-time and ongoing PRA burden from the proposed rule is minimal. Most prepaid account programs already comply with the current requirements of Regulation E, as they apply to payroll card accounts. The additional proposed requirements would generally require small extensions or revisions to existing practices. Finally, there may be several participants in the prepaid account supply chain and the activities of the participants may vary across prepaid programs. The Bureau understands that, in general, the respondents for purposes of PRA are program managers, except for the collection required by § 1005.19 (internet posting of prepaid account agreements and submission to the Bureau), where the respondents will likely be prepaid account issuers.

The Bureau believes that providers of prepaid accounts generally provide account opening disclosures, change in terms notices, and annual error resolution notices that meet the current requirements of Regulation E. However, the Bureau is proposing to expand the account opening requirements of § 1005.7(b)(5) as applied to prepaid accounts to require the disclosure of all fees, not just fees for electronic fund transfers. The one-time and ongoing burden from this requirement should be minimal. Regulation DD already requires banks to disclose all fees for accounts covered by that regulation. (Credit unions are subject to a similar requirement.) Program managers for prepaid accounts that may not constitute accounts under Regulation DD may need to adjust their account opening disclosures. The Bureau believes the one-time and ongoing cost of implementing this change would be minimal.[18]

[17] The Bureau recognizes some uncertainty regarding the rate at which the one-time burden on a program manager increases with the number of programs as well as uncertainty regarding the average number of programs per program manager. The Bureau welcomes comments on its PRA burden methodology as well as data and other factual information that could improve the Bureau's estimates of PRA burden.

[18] The Bureau notes that Regulation DD requires that a periodic statement disclose all fees debited to accounts covered by that regulation. § 1030.6(a)(3). Regulation DD defines "account" to mean "a deposit account at a depository institution that is held by or offered to a consumer. It includes time, demand, savings, and negotiable order of withdrawal accounts."

Providers offering certain electronic fund transfer services for prepaid accounts would also need to provide transaction disclosures. For example, a disclosure would be required for transactions conducted at an automated teller machine. These disclosures impose minimal burden as they are machine-generated and do not involve an employee of the institution. For preauthorized transfers to the consumer's account occurring at least once every 60 days, such as direct deposit, the institution would be required to provide notice as to whether the transfer occurred unless positive notice was provided by the payor. In lieu of sending a notice of deposit, the institution may provide a readily available telephone number that the consumer can call to verify receipt of the deposit. Thus, the burden of this requirement is also minimal. For preauthorized transfers from the account, either the institution or the payee would need to notify the consumer of payment variations. Because in the vast majority of instances the payee, rather than the account provider, would satisfy this obligation, the burden on providers is minimal.

The Bureau is proposing that, subject to certain exceptions provided in proposed § 1005.18(b)(1)(ii), a provider would be required to make available a short form and a long form disclosure required by § 1005.18(b)(2)(i) and (ii) before the consumer acquires the prepaid account. The Bureau estimates that providers, including Bureau respondents, would take 40 hours per prepaid account program, on average, to develop the short form disclosure and to update systems. The Bureau understands that each provider has 2.3 programs on average, so this activity would take about 92 hours total per provider, of which the Bureau allocates to itself half (46 hours) when the provider is a non-depository institution. Providers would take 8 hours annually per prepaid account program (1,104 minutes total per provider) to evaluate and if necessary update incidence-based fees on the short form disclosure. The Bureau recognizes this activity as requiring 552 minutes for each of 2 responses, of which the Bureau allocates to itself half (276 minutes) when the provider is a non-depository institution. Providers would incur no other ongoing costs for the short form disclosure since they already offer consumers a pre-acquisition disclosure. The Bureau estimates that providers, including Bureau respondents, would take on average 8 hours per prepaid account program to develop the long form disclosure and update systems. The long form disclosure is substantially the same as disclosures already provided in prepaid account agreements.[19]

Proposed § 1005.18(b)(7) would require that certain disclosures be made on the actual prepaid account access device. These include the name of the financial institution and the URL of a website and

---

§ 1030.2(a). Because some prepaid accounts, as proposed herein to be defined under Regulation E, may not also constitute accounts as defined under Regulation DD, the Bureau is proposing new § 1005.18(c)(3) to ensure that periodic statements and histories of account transactions for prepaid accounts include all fees, not just those related to electronic fund transfers and account maintenance. As noted above, this proposed revision is authorized under EFTA section 904(c) and section 1032(a) of the Dodd-Frank Act. The Bureau solicits comment on this portion of the proposal.

[19] Proposed § 1005.18(b)(2)(ii)(B) would require that the long form disclosure include the disclosures described in § 1026.60, regarding credit card applications and solicitations, if at any point a credit plan may be offered in connection with the prepaid account. This burden would be minimal give the Bureau's burden estimation methodology for Regulation Z, as explained below. Under proposed § 1005.18(b)(6), if a person principally uses a foreign language on a package in a retail store, on the telephone or on the website the consumer utilizes to acquire a prepaid account, then both the short form and long form disclosures would need to be provided in that foreign language. Discussions with industry indicate that providers generally adopt this practice. The long form disclosure would also need to be provided in English, but this would be a minimal one-time and ongoing expense.

a telephone number that the consumer can use to contact the financial institution about the prepaid account. The Bureau believes that currently all prepaid account access devices provide these disclosures.

The Bureau's proposal would require providers offering prepaid accounts to provide periodic statements unless they use the alternative method of compliance in proposed § 1005.18(c)(1). The Bureau expects that most providers would use the alternative method of compliance. The Bureau's Study of Prepaid Account Agreements and its industry research found that most programs provide electronic access to account information. However, few provide at least 18 months of prepaid account transaction history. Further, the Bureau currently understands that prepaid programs generally do not provide a summary total of all fees posted to the consumer's prepaid account, the total amount of all deposits to the account, and the total amount of all debits to the account for the prior calendar month and for the calendar year to date. The Bureau estimates that providers would take on average 24 hours per prepaid account program to implement these changes.

The Bureau is proposing to extend to all prepaid accounts the limited liability and error resolution provisions of Regulation E, as they apply to payroll card accounts.[20] As discussed above, the Bureau's Study of Prepaid Account Agreements and its industry research found that most providers of prepaid accounts provide limited liability and error resolution protections (including provisional credit) generally consistent with the Regulation E requirements for payroll card accounts. The Bureau estimates that providers (including Bureau respondents) that do not fully comply with the payroll card rule's limited liability and error resolution provisions would require 8 hours per non-compliant program to develop fully compliant limited liability and error resolution procedures. Regarding ongoing costs, Bureau outreach indicates that providers receive perhaps one call per month per customer who actively uses a card and that 95 percent of those calls are resolved without requiring time from a customer service agent. Of the remaining five percent, very few calls involve assertions of error, but escalated calls can be time consuming and respondents incur an ongoing burden.

Finally, the Bureau is proposing in § 1005.19(b) to require certain issuers to send the Bureau copies of the account agreements for their prepaid account programs. The Bureau estimates each issuer would take on average 40 hours one-time to upload agreements and then 8 hours each quarter on an ongoing basis.

13. Estimated Total Annual Non-Labor / Capital Cost Burden to Respondents or Recordkeepers

For a period of 12 months after the final rule is published in the Federal Register, financial institutions would be permitted to continue selling prepaid accounts that do not comply with the final rule's pre-acquisition disclosure requirements, if the account and its packaging material were printed prior to the proposed effective date. Based on discussions with industry, the Bureau understands that after 12 months approximately 40 percent of stock would remain in stores and would have to be located, shipped, and destroyed. The Bureau recognizes a one-time cost of locating, shipping, destroying and

[20] The Bureau is proposing an exception from these requirements for prepaid accounts (other than payroll card accounts and government benefit accounts) for which the financial institution has not completed its collection of consumer identifying information and identity verification, provided the financial institution has disclosed to the consumer the risks of not registering the prepaid account.

replacing these cards of approximately $17 million.

14. Estimated Cost to the Federal Government

The Bureau is proposing that providers of prepaid accounts would be required to send the Bureau copies of the account agreements for their prepaid account programs. The Bureau would incur costs in processing and reviewing prepaid account program agreements that providers would send in compliance with the proposal.

15. Program Changes or Adjustments

Summary of Burden Changes

	Annual Responses	Burden Hours	Cost Burden (O & M)
Total Burden Hours Requested	7,244,430	4,035,332	$17,000,000
Current OMB Inventory	7,237,760	4,014,300	0
Difference (+/-)	+6,670	+21,032	+17,000,000
Program Change	6,670	21,032	17,000,0000
Discretionary	6,670	21,032	17,000,0000
Due to New Statute	0	0	0
Violation	0	0	0
Adjustment	0	0	0

The Bureau is requesting a program change of 21,032 hours (from 4,014,300 to 4,035,332). This change in burden results from the proposed amendments to 12 CFR Part 1005 ("Regulation E").

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable.

17. Display of Expiration Date

The OMB number will be displayed in the PRA section of the notice of final rulemaking and in the codified version of the Code of Federal Regulations. Further, the OMB control number and expiration date will be displayed on OMB's public PRA docket at www.reginfo.gov.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to these certification requirements.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.