BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
INFORMATION COLLECTION REQUEST

SUPPORTING STATEMENT PART A
Arbitration Agreements
Disclosure and Reporting Requirements
Notice of Proposed Rulemaking for 12 CFR part 1040
(OMB CONTROL NUMBER: 3170-XXXX)

OMB TERMS OF CLEARANCE:

Not applicable. This is a new information collection request and as such has not heretofore been reviewed by the Office of Management and Budget (OMB); therefore, there are no OMB Terms of Clearance.

ABSTRACT:

Pursuant to section 1028(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203), the Bureau of Consumer Financial Protection (Bureau) is proposing to establish 12 CFR part 1040, which would contain regulations governing the use of agreements providing for arbitration of future disputes (hereinafter, arbitration agreements) by persons providing or offering covered consumer financial products or services who are not eligible for an exemption in the proposed rule (hereinafter, providers). In general, the proposal would prohibit providers from relying upon an arbitration agreement in a class litigation case concerning a covered consumer financial product or service. Relatedly, the proposal would include two types of information collections: (1) a mandatory contractual provision using language specified by the Bureau (with an alternative to send consumer notices in certain specified circumstances); and (2) submission of certain arbitral records to the Bureau. These information collections are described below.

JUSTIFICATION

1. Circumstances Necessitating the Data Collection

The rights of consumers and providers in the event of a dispute over a consumer financial product or service are generally set forth in a written contract. Many contracts for consumer financial products and services contain agreements that permit either party to use the agreement to require that a dispute proceed in arbitration instead of in court (referred to herein as

"arbitration agreements"). Most of these arbitration agreements forbid, or effectively otherwise do not permit, consumers' participation in class actions. Dodd-Frank section 1028(b) authorizes the Bureau to prohibit or impose conditions or limitations on the use of an arbitration agreement between a covered person and a consumer for a consumer financial product or service if the Bureau finds that that such a prohibition or imposition of conditions or limitations is in the public interest and for the protection of consumers. Section 1028(b) also requires that the findings in such rule be consistent with a study of arbitration agreements performed by the Bureau pursuant to Dodd-Frank section 1028(a).

For the reasons set forth more fully in the Bureau's notice of proposed rulemaking attached hereto ("NPRM"), the Bureau believes that precluding financial service providers from blocking consumer class actions through the use of arbitration agreements would better enable consumers to enforce their rights under federal and state consumer protection laws and the common law and obtain redress when their rights are violated. The Bureau believes that this, in turn, would strengthen the incentives for providers to avoid potentially illegal activities and reduce the likelihood that consumers would be subject to such practices in the first instance. The Bureau preliminarily finds that both of these outcomes, as well as others discussed in the NPRM, would be in the public interest and for the protection of consumers under Dodd-Frank section 1028(b).

Accordingly, the NPRM would – among other things – require providers that enter into arbitration agreements with consumers after the NPRM's compliance date to ensure that those agreements contain a specified provision stating that no person can use the agreement to stop the consumer from being part of a class action case in court. This requirement would ensure that consumers, courts, and other relevant third parties (including potential purchasers of accounts) are made aware when reading the agreement that it may not be used to prevent consumers from pursuing class actions concerning consumer financial products or services covered by the NPRM. Moreover, to the extent a provider attempts to invoke a pre-dispute arbitration agreement, consumers can invoke this contractual provision to enforce their right to proceed in court for class claims.

While the NPRM would prohibit providers from blocking consumer class actions through the use of arbitration agreements, it would not prohibit providers from maintaining arbitration agreements in consumer financial contracts generally. The Bureau remains concerned, however, that there is a potential for consumer harm in how arbitration agreements could be used to influence the resolution of consumer financial disputes. The Bureau believes that it is important that arbitral disputes going forward be subject to enhanced transparency, both to the Bureau and to the broader public. Accordingly, the NPRM would require providers to submit specified arbitral records to the Bureau relating to any arbitration agreement entered into after the compliance date. The Bureau intends to publish these records on its website in some form, with appropriate redactions or aggregation as warranted.

The Bureau believes the following provisions of the NPRM constitute information collections under the Paperwork Reduction Act.

The first information collection requirement relates to proposed disclosure requirements. The proposal would require providers that enter into arbitration agreements with consumers after the date set forth in proposed § 1040.5(a) (the "compliance date") to ensure these arbitration agreements contain a provision that is specified by proposed § 1040.4(a)(2) of the NPRM. The specified provision would effectively state that no person can use the agreement to stop the consumer from being part of a class action case in court. The Bureau proposed this language and, if the rule is adopted as proposed, providers would be required to use it unless an enumerated exception applies. Proposed § 1040.4(a)(2)(i) would specify the precise language of the provision. Proposed § 1040.4(a)(2)(ii) would contain an alternative provision that providers may use in arbitration agreements for multiple products or services only some of which would be covered by the NPRM. This information collection is described herein as the "Contract Provision Requirement."

The NPRM contains two alternatives to the Contract Provision Requirement. One is available in the circumstances described in proposed § 1040.4(a)(2)(iii)(B) ("Alternative for Providers Entering into a Preexisting Arbitration Agreement"). The other is available to providers of general purpose reloadable ("GPR") prepaid cards in the circumstances described in proposed § 1040.5(b) ("GPR Prepaid Card Notification Alternative").

The Alternative for Providers Entering into a Preexisting Arbitration Agreement would give added flexibility to providers who enter into arbitration agreements that existed previously. (This could occur when, for example, Bank A acquires Bank B after the compliance date; Bank B had entered into arbitration agreements before the compliance date; and, as part of the acquisition, Bank A enters into Bank B's arbitration agreements so that Bank A could assert the agreements in a lawsuit filed against it.) Under this alternative, which is set forth in proposed § 1040.4(a)(2)(iii), if a provider enters into an arbitration agreement that existed previously and the agreement does not already comply with the Contract Provision Requirement, the provider would be required to take specified action within 60 days of entering into the arbitration agreement. The provider would be required either to ensure the agreement is amended to contain the specified provision or to send any consumer to whom the agreement applies a written notice stating the provision.

Under the GPR Prepaid Card Notification Alternative set forth in proposed § 1040.5(b), the Contract Provision Requirement would not apply to an arbitration agreement for a GPR prepaid card in certain circumstances. For providers that do not have the ability to contact the consumer in writing, the Contract Provision Requirement would not apply to an arbitration agreement for a GPR prepaid card if (1) the consumer acquires a GPR prepaid card in person at a retail store, (2) the arbitration agreement was inside of packaging material when the GPR prepaid card was acquired, and (3) the arbitration agreement was packaged prior to the compliance date. For providers that have the ability to contact the consumer in writing, the Contract Provision Requirement would not apply to an arbitration agreement for a GPR prepaid card if the provider meets these same three requirements and, within 30 days of obtaining the consumer's contact

information, the provider notifies the consumer in writing that the pre-dispute arbitration agreement complies with the Contract Provision Requirement by providing an amended pre-dispute arbitration agreement to the consumer.

The second information collection requirement relates to proposed reporting requirements. Proposed § 1040.4(b) would require providers to submit specified arbitral records to the Bureau relating to any arbitration agreement entered into after the compliance date. Providers would be required to submit certain records used in connection with cases filed in arbitration ("Arbitral Case Records Submission Requirement"). In particular, providers would be required to submit the following four types of documents in connection with any claim filed in arbitration: (A) the initial claim and any counterclaim; (B) the arbitration agreement filed with the arbitrator or administrator; (C) the judgment or award, if any, issued by the arbitrator or arbitration administrator; and (D) if an arbitrator or arbitration administrator refuses to administer or dismisses a claim due to the provider's failure to pay required filing or administrative fees, any communication the provider receives from the arbitrator or an arbitration administrator related to such a refusal. In addition to the Arbitral Case Records Submission Requirement, the proposal would require the submission of any communications the provider receives from an arbitrator or arbitration administrator related to a determination that an arbitration agreement for a product or service covered by the NPRM does not comply with the administrator's fairness principles, rules, or similar requirements ("Arbitration Agreement Unfairness Submission Requirement").

All documents covered by the Arbitral Case Records Submission Requirement and the Arbitration Agreement Unfairness Submission Requirement must be submitted to the Bureau within 60 days of filing by the provider or, in the case of records filed by other persons (such as arbitrators or arbitration administrators), receipt by the provider. Before submitting these documents to the Bureau, the provider would be required to redact any of nine specific types of information specified in proposed § 1040.4(b)(3), to the extent such information appears in any of these documents, including: (i) names of individuals, except for the name of the provider or the arbitrator where either is an individual; (ii) addresses of individuals, excluding city, state, and zip code; (iii) email addresses of individuals; (iv) telephone numbers of individuals; (v) photographs of individuals; (vi) account numbers; (vii) Social Security and tax identification numbers; (viii) driver's license and other government identification numbers; and (ix) passport numbers.

2. Use of the Information

As discussed above, under the proposed Contract Provision Requirement, arbitration agreements between consumers and providers would be required to include the Bureau's mandated language. Because these are generally form contracts prepared by the provider, providers entering into these arbitration agreements with consumers would be required to ensure the agreement contains the mandated provision (or, in certain circumstances described above, send notices to consumers in the absence of the arbitration agreement containing such a provision). As reflected in the Bureau's Section 1022(b)(2) Analysis in the NPRM, the Bureau does not believe this would be

an especially burdensome requirement.[1] For most providers, this would entail a one-time change to the provider's standard-form agreement. By proposing specific mandated language, rather than a general requirement that contract language must meet, the Bureau believes the proposal would reduce uncertainty regarding what type of contract provisions are permissible and therefore reduce the burden of analyzing what is required. The Bureau expects that, if implemented, this provision would be used by a number of different parties. The Bureau expects consumers, providers, their counsel, courts, and the Bureau itself all would reference this provision from time to time. The Bureau expects that the use of consistent language in the provision would reduce uncertainty for all parties concerned about providers' legal obligations.

The Arbitral Case Records Submission Requirement would require providers to submit specified arbitration records to the Bureau. As outlined above, the NPRM specifically describes each type of record that must be submitted, and the Bureau believes each type of record is a standard type that providers would be able to readily identify in connection with any arbitration they or consumers file concerning a covered consumer financial product or service. The Bureau does not believe identifying, redacting as necessary, and mailing or e-mailing these records to the Bureau within 60 days of filing or receipt from another person, as the Bureau has proposed, would entail significant burden on any individual provider. It also is possible that arbitration administrators would develop a mechanism to assist providers in complying with this proposed obligation. Further, as described in the NPRM, arbitrations pertaining to consumer financial products and services are relatively infrequent. In the Study, the Bureau documented an average of 616 cases per year for six product markets combined; in comparison, the NPRM would create class action exposure for about 53,000 providers. As a result, at present, the likelihood is low that a given provider would have to provide any information to the Bureau under proposed § 1040.4(b) in a given year.

With respect to uses of this information, the Bureau at a minimum plans to analyze trends in consumer dispute resolution to determine if particular arbitration administrators or providers are impeding the ability of consumers to effectively resolve disputes through arbitration, whether in general or in particular types of cases. Specifically, the Bureau would use the collection of arbitration claims, among other things, to track the raw numbers of arbitrations and to better understand what types of claims consumers and providers are bringing to arbitration. The Bureau would use the collection of awards, among other things, to gain insight into the types of claims that reach the point of an adjudication and the way in which arbitrators resolve these claims. The collection of arbitration agreements, in conjunction with other information collected, would allow the Bureau to monitor the impact that particular clauses in arbitration

[1] The burden may be higher for companies that acquire credit accounts from merchants not covered by the Bureau's proposal. Unless such merchants voluntarily make one-time changes to all such credit agreements, the acquirers would instead be required to ensure the agreements are amended (or provide consumer notices) on a rolling basis as the credit accounts are acquired. For example, buyers of medical debt would need to identify which accounts involve consumer credit originated by a creditor under the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.*, and ensure amendments are made or send notices to those consumers. The Bureau believes these amendments or notices could be consolidated with other legally-mandated notices, to the extent the provider must send those.

agreements have on consumers and companies, the resolution of those claims, and how arbitration agreements evolve. Collection of correspondence regarding non-payment of fees and non-compliance with due process principles would, among other things, allow the Bureau insight into whether and to what extent providers fail to meet the arbitral administrators' standards. Collection of this information would also allow the Bureau to take action against providers that are engaging in potentially illegal actions that impede consumers' ability to bring claims against their providers.

The Bureau also intends to publish the materials it receives on its website in some form, with appropriate redactions or aggregation as warranted. This information may be useful to the public for additional purposes. For example, information about arbitration proceedings may be useful to consumers with similar disputes. Such information may also help providers assess their choice of administrator and become aware of practices of their competitors that are being addressed through arbitration.

3. Use of Information Technology

The NPRM states that providers that elect to deliver the notice permitted by the Alternative for Providers Entering into a Preexisting Arbitration Agreement may provide the notice in any way the provider communicates with the consumer, including electronically. Regarding the GPR Prepaid Card Notification Alternative, the NPRM states that providers that have the ability to contact the consumer in writing could satisfy the requirement by, among other things, communicating the new terms on the provider's website or sending a compliant agreement to the consumer. With respect to the latter, the Bureau believes that, in general, providers would be able to use electronic communication where permitted by applicable law such as the E-SIGN Act.

With respect to the Arbitral Case Records Submission Requirement, if finalized, the Bureau intends to develop, implement, and publicize an electronic submission system for these materials. Through such a system, the Bureau may permit providers to email these records to a Bureau email address or to upload them to a Bureau website. The Bureau anticipates that this system would be operational before the effective date of any final rule. If the Bureau finalizes this provision and the system is not operational before such date, the Bureau may consider delaying the effective date of the provision with respect to this proposed requirement.

4. Efforts to Identify Duplication

The Bureau does not believe that any of the information collections in the NPRM would be duplicative. While the Bureau does collect credit card agreements and has proposed to collect prepaid account agreements, which may contain arbitration agreements, these agreements cannot be used or modified for the purposes described in Item 2 above, because, to accomplish these purposes, the Bureau needs to receive the specific agreement that the provider is relying on in the arbitration at issue.

The Bureau is aware of only one similar federal rule, which requires SEC-regulated broker dealers to include specified language in their arbitration agreements that prevents application of the arbitration agreements to class actions and also requires that arbitral awards be made public. The Bureau believes these requirements are substantially similar to its proposed Contract Provision Requirement and Arbitral Case Records Submission Requirement. Accordingly, to avoid duplication with this preexisting regulation of arbitration agreements used by SEC-regulated broker dealers, the Bureau has proposed an exemption for broker dealers in proposed § 1040.3(b)(1). As a result, broker dealers covered by the SEC rule would not be subject to the proposal.

More broadly, the Bureau does not foresee significant duplication of its own activities. The Bureau's existing programs do not generate access to the types of ongoing, systematic, and timely data that the Arbitral Case Records Submission Requirement would create. For example, the Bureau supervises certain larger participants in certain markets, and may in the course of its supervision activities review certain arbitral case records relating to consumer disputes, but such a review is not systematically performed at all supervised entities. Furthermore, most of the entities affected by the proposal are not supervised by the Bureau. The Bureau also only conducts supervision examinations on a periodic and risk-based basis. Therefore, even for entities it does supervise, the arbitral records that must be submitted would not be seen by the Bureau until some time (often well more than 60 days) after the submission to the Bureau would be required under the NPRM.

5. Efforts to Minimize Burdens on Small Entities

In its initial regulatory flexibility analysis (IRFA) provided in the NPRM, the Bureau estimates that the NPRM would affect 51,000 small entities that provide products or services covered by the proposal.

In October 2015, the Bureau convened a Small Business Review Panel (Panel) with the Chief Counsel for Advocacy of the Small Business Administration (SBA) and the Administrator of the Office of Information and Regulatory Affairs with the Office of Management and Budget (OMB).[2] As part of this process, the Bureau prepared an outline of proposals under consideration and alternatives considered (Outline), which the Bureau posted on its website for review by the small financial institutions participating in the panel process, as well as the general public.[3] Working with stakeholders and the agencies, the Bureau identified 18 Small Entity

[2] The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), as amended by section 1100G(a) of the Dodd-Frank Act, requires the Bureau to convene a Small Business Review Panel before proposing a rule that may have a substantial economic impact on a significant number of small entities. Public Law 104-121, tit. II, 110 Stat. 847, 857 (1996) (as amended by Public Law 110-28, section 8302 (2007)).

[3] CFPB, Press Release, *CFPB Considers Proposal to Ban Arbitration Clauses that Allow Companies to Avoid Accountability to Their Customers* (Oct. 7, 2015), *available at* http://www.consumerfinance.gov/newsroom/cfpb-considers-proposal-to-ban-arbitration-clauses-that-allow-companies-to-avoid-accountability-to-their-customers/.

Representatives (SERs) to provide input to the Panel on the proposals under consideration. With respect to some markets, the relevant trade groups reported significant difficulty in identifying any small financial services companies that would be impacted by the approach described in the Bureau's Outline. During the Panel, small entities voiced minimal concerns with the information collection components of the proposal.

Several aspects of the Bureau's proposed rule are designed to minimize burden on providers, including small entities. Examples include the Contract Provision Requirement, which may reduce burden by reducing confusion about what contractual language would satisfy the Bureau's rule; the Alternative for Providers Entering into a Preexisting Arbitration Agreement, which allows providers entering into preexisting arbitration agreements the option of providing written notice in place of amending the underlying contract; and the GPR Prepaid Card Notification Alternative, which may reduce burden by giving providers an alternative to pulling non-compliant packages from retail store shelves and replacing them.

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

If the Contract Provision Requirement (and the associated alternatives described above) were not implemented, the Bureau believes that a significant number of arbitration agreements entered into in the future could include language that on its face may be misleading to consumers, providers, courts, or others. In particular, these arbitration agreements, by virtue of not specifying which cases they do and do not apply to, could create the misimpression that they apply to class litigation, when the NPRM would otherwise not permit such application of the agreements. Without the mandated language, the Bureau also believes some providers may face uncertainty as to how to describe the relationship between the arbitration agreement and the Bureau's proposed rule. Such uncertainty could lead providers to incur costs related to the drafting of language and/or perhaps choose to drop arbitration agreements altogether.

With respect to the Arbitral Case Records Submission Requirement and the Arbitration Agreement Unfairness Submission Requirement, the Bureau has proposed to require submission of a core set of materials that would enable the Bureau to determine the nature of the dispute, its outcome (in the case of an award), and whether problems with the arbitration agreement itself or the payment of fees under that agreement interfered with the ability of the parties to pursue the arbitration. Without these core materials, the Bureau would not be in a position to attempt to identify, for example, the types of cases that are being pursued in arbitration, whether there are patterns across cases that may indicate unfairness in the way the arbitral forum is being used or functioning, or whether there are significant obstacles to the ability of consumers to pursue these cases in arbitration. To the extent the Bureau decides in the future to publish any of these materials or summary statistics, the Bureau believes that these inputs are important to inform the

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The Bureau also gathered feedback on the Outline from other stakeholders and members of the public, and from the Bureau's Consumer Advisory Board (CAB). *See* http://www.consumerfinance.gov/advisory-groups/advisory-groups-meeting-details/ (video of the Bureau's October 2015 presentation to the CAB).

public on the foregoing and other relevant issues as well.

In terms of requiring redaction by providers of certain examples of consumer information in any materials submitted under these requirements, the Bureau believes this requirement facilitates compliance with section 1022(c)(4)(C) of the Dodd-Frank Act. That statutory provision states that the Bureau may not use its market monitoring authority to obtain records from providers "for purposes of gathering or analyzing the personally identifiable financial information of consumers." The Bureau believes it has identified the examples of such information that are likely to exist in the records submitted under the proposed rule. The redaction requirement is therefore focused on only these examples, and is not tied more generally to any other types of information that may be considered "personally identifiable financial information" in a generic sense. The Bureau believes this approach would reduce burden on providers while meeting the requirements of section 1022(c)(4)(C).

7. Circumstances Requiring Special Information Collection

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 CFR 1320.11, the Bureau has published an NPRM 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 NPRM would be addressed in the preamble to any final rule.

9. Payments or Gifts to Respondents

Not applicable. No payments or gifts to respondents will be provided.

10. Assurances of Confidentiality

Not applicable. No assurances of confidentiality will be provided to covered entities responding to the information collection requirements contained in the NPRM.

11. Justification for Sensitive Questions

Not applicable. The proposed information collection does not contain any questions of a sensitive nature.

12. Estimated Burden of Information Collection

Exhibit 1: Burden Hour Summary

Information Collection Requirement	No. of Respondents	Type of IC	Frequency	Annual Responses	Average Response Time	Annual Burden Hours	Hourly Rate[4]	Hourly Costs
One time burden for changing existing pre-dispute arbitration agreements [proposed § 1040.4(a)(2)]	48,000	3rd Party Disclosure	One time	48,000	2	96,000	$200	$19,200,000
Arbitral Case Records Submission Requirement [proposed § 1040.4(b)]	Up to 500	Reporting	On occasion	500	2.5	1,250	$200	$250,000
Totals:	48,500			48,500		97,250		$19,450,000

A. Disclosure Requirements

As discussed above, the Bureau believes that this proposed rule would impose two new information collection requirements on covered entities or members of the public that would constitute collections of information requiring OMB approval under the PRA. As in its impact analysis required by Dodd-Frank section 1022(b)(2) and in its Regulatory Flexibility Analysis (RFA) (see preamble for the NPRM), the providers affected are providers that currently use arbitration agreements.

The Contract Provision Requirement would require providers that enter into arbitration agreements with consumers after the compliance date to ensure these arbitration agreements contain a provision specified in proposed § 1040.4(a)(2). Under the Contract Provision Requirement, providers would incur administrative expenses to make the one-time change to the arbitration agreement itself. The Bureau anticipates that providers would incur and manage these costs in one of three ways. First, providers that rely exclusively on third-party contract form providers, with which they already have a relationship, would obtain compliant agreements from the third-party provider. Second, providers that perform a periodic (*e.g.*, annual) review of the contracts they use with consumers would, as part of that review, either revise their arbitration agreements or delete them. For these providers, it is unlikely that the proposed rule would cause considerable incremental expense of changing or taking out the arbitration agreement insofar as they already engage in a regular review, as long as this review occurs before the rule becomes effective. Third, there are likely to be some providers that use contracts that are highly

[4] Bureau of Labor Statistics, April 2016, Occupational Employment and Wage Estimates, http://www.bls.gov/oes/current/oessrci.htm. The hourly rate is a weighted average composed of the average wages for a specific sector and corresponding occupation.

customized to their own needs and that might not engage in annual reviews. These would require a more comprehensive review in order to either change or remove the arbitration agreement. The Bureau believes that smaller providers are likely to fall into the first category. The Bureau believes that the largest providers would fall into either the second or the third category.

On average across all three categories, the Bureau believes that the average provider's expense for the administrative change related to the Contract Provision Requirement to be about $400 per provider. This consists of approximately one hour of time from a staff attorney or compliance person, at an hourly rate of $200, and an hour of supporting staff time, at an hourly rate of $200. Accordingly, given the Bureau's estimate that about 48,000 providers use arbitration agreements,[5] the Bureau estimates that the overall paperwork burden from changing the contract is about 96,000 hours across all NAICS codes, and the Bureau estimates that the proposed Contract Provision Requirement would result in a one-time cost of about $19.2 million. The breakdown by NAICS code is according to the tables presented in Section 1022(b)(2) and RFA. No burden is taken for the ongoing providing of the required contractual provision since (1) providing arbitration agreements is already part of providers' standard business practice and (2) the NPRM provides the specific language that must be used in the required contractual provision, and, according to the implementing regulations of the Paperwork Reduction Act, the public disclosure of information originally supplied by the Federal government is exempt from the PRA definition of a "collection of information."[6]

The Contract Provision Requirement would also require certain providers – such as providers that acquire consumer credit accounts from merchants not subject to the Bureau's rule, and buyers of consumer credit (including medical credit) – to ensure, when they enter into an arbitration agreement, that the agreement is amended to contain a provision or that they send the consumer a notice stating that the debt buyer would not invoke the pre-dispute arbitration agreement in a class action. The Bureau believes that this cost is minimal since these providers often send out other notices upon buying such consumer credit, and the Bureau's required notice could just be included with those already-required communications. Further, the proposed regulation supplies the exact language required for such disclosures.

B. Arbitral Case Records Submission Requirement

The Arbitral Case Records Submission Requirement would require providers to submit specified arbitral records to the Bureau relating to any arbitration agreement entered into after the compliance date, primarily in connection with individual arbitrations. Given the low prevalence of individual arbitration (the Study found an average of 616 arbitrations per year across six

[5] This figure is lower than the figure cited above – that the proposed rule would create class action exposure for about 53,000 providers – primarily because debt collectors do not incur the cost of changing the contract, as the primary provider (such as the credit card issuer) incurs this cost.
[6] See 5 CFR 1320.3(b)(2) & 1320.3(c)(2), respectively.

consumer financial markets), the low burden per occurrence (sending redacted copies of already-existing documents), and the possibility that some providers with arbitration agreements might choose to drop arbitration agreements altogether instead of rewriting their current arbitration agreements, the Bureau believes that this burden is minimal. The Bureau further believes that some arbitration administrators might provide this service to the providers.

The Bureau's section 1022(b)(2) and RFA analyses do not quantify the impact of the Arbitral Case Records Submission Requirement. However, for purposes of the Paperwork Reduction Act analysis, the Bureau assumes that this requirement would result in up to 500 responses per year. The Bureau believes it is unlikely that this requirement would impose a cost of more than $100 per arbitration – a conservative estimate for the time required to copy or scan the documents and either submit them electronically or mail them, including any postage costs. (The Bureau expects that most providers would submit the required materials electronically, *e.g.*, either through email or by uploading them to the Bureau's website.) To the extent covered persons would be required to redact specific identifiers, as described above, this cost might increase, conservatively, by a few hundred dollars on average due to the time to train the staff on the specific identifiers and the time to redact the documents, for each arbitration. Thus, the Bureau conservatively estimates a cost of about $500 per arbitration and an average response time of 2.5 hours, resulting in a total ongoing burden cost of about $250,000 across all providers.[7]

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

The Bureau does not estimate any capital/start-up or operating and maintenance costs associated with the NPRM. The Bureau believes that the attorneys or compliance staff who would perform the required tasks would overwhelmingly be individuals otherwise employed by the provider. With respect to the Contract Provision Requirement, the Bureau believes that, to the extent covered entities use contracts from form providers, the addition of the required provision might be done by the form providers themselves, requiring a simple check by the provider's compliance staff to ensure that the provision has been added. With respect to the Arbitral Case Records Submission Requirement, the Bureau does not anticipate that providers would incur any materials or mailing costs, as the Bureau expects that most providers would submit the required materials electronically. In the NPRM, the Bureau requests comment on whether there are any additional costs required to comply with reporting, recordkeeping, and other compliance requirements of the proposed rule that the Bureau does not assess.

14. Estimated Cost to the Federal Government

The Bureau estimates that any costs to the Bureau associated with the NPRM would be *de minimis* in the context of the Bureau's overall budget. The Contract Provision Requirement

[7] The Bureau believes that the cost of the Arbitration Agreement Unfairness Determination Submission Requirement would be negligible. The Bureau does not believe that any significant number of such communications currently occur in a given year. The Bureau therefore does not assume any burden for this requirement in Exhibit 1.

imposes no obligations on the Bureau. With respect to the Arbitral Case Records Submission Requirement, the Bureau intends, to the extent possible, to utilize existing personnel and technology in order to make any costs related to submission and publication *de minimis*.

15. Program Changes or Adjustments

This is a new information collection request; therefore, all the burden (see item 12) is considered a program change.

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable. The Bureau currently has no plans to use the information for statistical analysis.

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 the Federal government's electronic 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.

SUPPORTING STATEMENT PART B - COLLECTIONS OF INFORMATION USING STATISTICAL METHODS

Not applicable. This information collection request does not request the use of any statistical methods.