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

**SUPPORTING STATEMENT PART A**
**TRUTH IN SAVINGS ACT (REGULATION DD) 12 CFR 1030**
**(OMB CONTROL NUMBER: 3170-0004)**

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## OMB TERMS OF CLEARANCE:

When the Office of Management and Budget (OMB) last approved the information collections contained in 12 CFR 1030 and covered under OMB number 3170-0004, OMB provided the following Terms of Clearance:

> *Pursuant to the previous terms of clearance, [Consumer Financial Protection Bureau] CFPB will make sure to revise the collection, even within the 3 year-approval period that OMB has granted, as revised estimates on burden and cost estimates become available from CFPB's own research efforts and/or from the other three agencies that enforce Reg DD (OCC/TRES, FDIC, and FRB).*

In response to the above noted Terms of Clearance, the burden estimates in this request have been revised based on the Consumer Financial Protection Bureau's (CFPB) own research and burden calculation methodologies See Item 12, 13, and 15 below.

## ABSTRACT:

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

## JUSTIFICATION

### 1. Circumstances Necessitating the Data Collection

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

The CFPB received rulemaking and shared enforcement authority of TISA through the Dodd-Frank Act (Pub. L. 111–203, Sec. 1100B)[1] and the CFPB has promulgated Regulation DD to implement TISA, as required by statute. Regulation DD is located at 12 CFR 1030 and is available at www.ecfr.gov. The other agencies with enforcement authority under this regulation and associated OMB control numbers are as follows:

| **Other Federal Agencies with enforcement authority for Regulation DD** | **Code of Federal Regulations** | **OMB Control Number** |
|---|---|---|
| Federal Reserve Board | 12 CFR 1030 | 7100-0271 |
| The Department of Treasury's Office of the Comptroller of the Currency | 12 CFR 1030 | 1557-0176 |
| Federal Deposit Insurance Corporation | 12 CFR 230 | 3064-0084 |

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

Regulation DD applies to all depository institutions except credit unions.[2] The information collected pursuant to Regulation DD is triggered by specific events and disclosures and must be provided to consumers within the time periods established by TISA and the regulation. There are no reporting forms associated with Regulation DD. However, to ease the compliance cost (particularly for small entities), model disclosure clauses and sample account forms are appended to the regulation.

The particular information collection requirements contained in Regulation DD along with the utility of such requirements are discussed in Item 2 below.

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

[2] Credit unions are covered by a substantially similar rule issued by the National Credit Union Administration, found in 12 CFR Part 707.

## 2. Use of the Information

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

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

CFPB notes that Section 1030.3 of Regulation DD provides "General disclosure requirements" the specific requirements for which are delineated in subsequent sections of Regulation DD and summarized below. Additionally, CFPB notes that in regards to the general disclosure requirements of Regulation DD, compliance with Regulation E (12 CFR Part 1005) is deemed to satisfy the disclosure requirements of Regulation DD when certain conditions prevail. See Appendix D, Official Interpretations to Part 1030, Supplemental I, Section 1030.3(c).

Account Disclosures (§1030.4)

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

Subsequent Notices (§1030.5)

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

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

- For automatically renewable time accounts with a term less than or equal to one month, no advance notice is required.
- Advance notices for automatically renewable time accounts with a maturity longer than one month but less than or equal to one year may be sent either 30 days before maturity or, as an alternative, 20 calendar days before the end of a grace period, so long as the grace period is at least 5 days. The alternative timing rule was adopted to allow flexibility for institutions to maintain any existing practice to send notices 10 to 15 days prior to maturity. The notice may contain the disclosures required when the account is opened or, as an alternative, information on the interest rate and APY for the new account, the maturity date for the existing and new accounts, and any changes in terms.
- For automatically renewable time accounts with terms longer than one year, institutions must provide disclosures required at account opening. The timing rules for these accounts longer than one year are the same as for accounts with maturities longer than one month but less than or equal to one year.
- For nonrenewable time accounts with a maturity of less than or equal to one year, no notice is required. If the maturity is longer than one year, the notice must provide information on the maturity date, and whether or not interest will be paid after maturity. The disclosures shall be mailed or delivered at least 10 calendar days before maturity of the existing account.

Periodic Statement Disclosure (§1030.6)

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

Advertising (§1030.8)

The advertising rules apply to both depository institutions and deposit brokers. The purpose of the advertising rules is to provide potential shoppers with uniform and accurate information that they can use in deciding among various deposit accounts. This section specifies that additional disclosures are required if advertisements discuss an annual percentage yield, bonuses, or overdraft features (discussed in 1030.11).

Additional disclosure requirements for overdraft services (§1030.11)

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

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

Recordkeeping (§1030.9(c))

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

## 3. Use of Information Technology

Regulation DD contains rules to establish uniform standards for using electronic communication to deliver disclosures required under Regulation DD, within the context of the Electronic Signatures in Global and National Commerce Act (ESIGN), 15 U.S.C. 7001 et seq. 12 CFR 1030.3(a). These rules enable businesses to utilize electronic disclosures and compliance, consistent with the requirements of ESIGN. Use of such electronic communications is also consistent with the Government Paperwork Elimination Act (GPEA), Title XVII of Pub. L. 105-277, codified at 44 U.S.C. 3504, note. ESIGN and GPEA serve to reduce businesses' compliance burden related to federal requirements, including Regulation DD, by enabling businesses to use more efficient electronic media for disclosures and compliance.

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

## 4. Efforts to Identify Duplication

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

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

Additionally, as noted above in Item 2, in regards to the general disclosure requirements of Regulation DD, compliance with Regulation E (12 CFR Part 1005) is deemed to satisfy the disclosure requirements of Regulation DD when certain conditions prevail. See Appendix D, Official Interpretations, to Part 1030, Supplemental I, Section 1030.3(c). Furthermore, CFPB's Official Interpretations for Section 1030.6, Periodic Statement Disclosures, may combine periodic statements without triggering the disclosure requirements of that part so long as certain conditions prevail. See Appendix D, Official Interpretations to Part 1030, Supplemental I, Section 1030.6.

## 5. Efforts to Minimize Burdens on Small Entities

Most depository institutions today use some degree of computerization in their business, and Regulation DD permits businesses to rely on computer support, among other alternatives, to meet their recordkeeping and disclosure requirements. This flexibility yields reduced recordkeeping and disclosure costs (See Item 3 above.) Moreover, as noted previously, Regulation DD provides model forms and clauses that may be used in compliance with its requirements. Correct use of these forms and clauses insulates a depository institution from liability as to proper format.

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

The current record retention period of two years supports the one-year statute of limitations for private actions, and enforcement agencies' need for sufficient time to bring enforcement actions regarding deposit accounts. If the retention period were shortened, consumers who sue under TISA, and the administrative agencies, might find that depository institution records needed to prove violations of TISA no longer exist.

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

## 7. Circumstances Requiring Special Information Collection

There are no special circumstances. The collection of information requirements in the changes to Regulation DD are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

## 8. Consultation Outside the Agency

In accordance with 5 CFR §1320.8(d)(1), the Bureau has published a notice at Federal Register allowing the public 60 days to comment on this proposed the extension (renewal) of this currently approved collection of information. No comments were received. Further, and in accordance with 5 CFR §1320.5(a)(1)(iv), the Bureau has also published a notice in the Federal Register allowing the public 30 days to comment on the submission of this information collection request to the Office of Management and Budget.

## 9. Payments or Gifts to Respondents

No payments or gifts are provided to respondents.

## 10. Assurances of Confidentiality

There is no part of the rule that mandates information collection by the CFPB. To the extent that information covered by a recordkeeping requirement is collected by the CFPB for law enforcement purposes, the confidentiality provisions of CFPB's rules on Disclosure of Records and Information, 12 CFR Part 1070, would apply.

The information that may be collected for law enforcement purposes would be covered by the following Systems of Records Notices (SORNs): CFPB.004 Enforcement Database, 76 FR 45757, that can be found at https://www.federalregister.gov/articles/2011/08/01/2011-19424/privacy-act-of-1974-as-amended; and the CFPB.018 CFPB Litigation Files SORN, 77 FR 27446, that can be found at https://www.federalregister.gov/articles/2012/05/10/2012-11233/privacy-act-of-1974-as-amended.

## 11. Justification for Sensitive Questions

The CFPB collects no information under Regulation DD, which requires institutions to provide disclosures to consumers and keep records of those disclosures. No questions of a sensitive nature are asked of respondents.

## 12. Estimated Burden of Information Collection

### Exhibit 1: Summary of Burden Hours and Related Costs

| Information Collection Requirement | No. of Respondents | Annual Responses | Average Response Time (hrs.) | Annual Burden Hours | Hourly Rate | Labor Costs |
|---|---|---|---|---|---|---|
| **§1030.4 Account disclosures** | | | | | | |
| Delivery of account opening disclosures [§ 1030.4(a)] | 6,213 | 43,891,720 | 0.0167 | 731,529 | $26.00 | $ 19,070,045 |
| Providing account disclosures upon request [§ 1030.4(a) (2)] | 6,213 | n/a | 0.00 | 0.00 | | $0.00 |
| **§1030.5 Subsequent disclosures** | | | | | | |
| Change-in-terms notice [§ 1030.5(a)] | 6,213 | 4,545,809 | 0.00 | 0.00 | | $0.00 |
| Notice prior to maturity [§ 1030.5(b)&(c)] | 6,213 | 10,257 | 0.00 | 0.00 | | $0.00 |
| **§1030.6 Periodic statement disclosures** | | | | | | |
| Requirements for existing periodic statement disclosures [§ 1030.6] | 6,213 | 579,037,608 | 0.00 | 0.00 | 0.00 | $0.00 |
| **§1030.8 Advertising** | | | | | | |
| Requirement for Advertisements and indoor signs [§ 1030.8(b), (c), (d),(e)(2) & § 1030.11(a), (b), & (c)] | 6,213 | n/a | 0.00 | 0.00 | 0.00 | $0.00 |
| **§1030.9 Enforcement and record retention** | | | | | | |

| Information Collection Requirement | No. of Respondents | Annual Responses | Average Response Time (hrs.) | Annual Burden Hours | Hourly Rate | Labor Costs |
|---|---|---|---|---|---|---|
| Record retention [§ 1030.9(c)] | 6,213 | n/a | 0.00 | 0.00 | 0.00 | $0.00 |
| **Total Burden for All Regulated Entities** | 6,213 | 43,891,720 | 0.0167 | 731,529 | $26.00 | $19,070,045 |
| **Total Burden for CFPB Regulated Entities** | 129 | 34,380,496 | 0.0167 | 573,008 | $26.00 | $14,937,615 |

CFPB estimates that there are 6,213 institutions subject to Regulation DD of which 129 are under CFPB's supervisory authority.

The CFPB attributes to itself burden associated with the entities it supervises, and this regulation only applies to non-credit union depository institutions. While not many institutions fall under CFPB enforcement authority, the number of accounts owned by these institutions represents a significant portion of the total market, and is represented here. The CFPB obtained these estimates using a variety of industry and market sources, both public and proprietary.

While there are more disclosures required under Regulation DD, the account opening disclosure is the only one that is most likely to happen while the consumer is physically present at a bank, and is therefore the only one that requires significant, measureable time to process.  Providing account disclosures upon request also likely requires human interaction; however, the Bureau believes that such requests typically happen as a part an ordinary business interaction between a customer and a bank, and therefore the marginal hourly burden imposed by such requests is minimal.

Other disclosures, including notices of change of terms, and notices prior to maturity for time accounts, are automatically generated by systems already owned by the respondents and therefore does not require human time. Further, as pointed out previously, Regulation DD does not require periodic account statements; rather, it imposes additional requirements on statements that already exist. CFPB estimates that the incremental burden of these requirements imposed on respondents is minimal. Likewise, regarding the recordkeeping requirement, CFPB believes that institutions incur no additional burden for maintaining sample disclosures for each type of account offered to consumers since these artifacts are generally created and stored in digital form (an acceptable method of recordkeeping).

Associated Labor Cost: $14,937,615

The CFPB calculated labor costs by estimating the burden hours associated with complying with the required account opening disclosures described in Exhibit 1. According to the BLS, financial clerks, who would be helping consumers opening an account at a bank, have a median fully-loaded wage rate of $26.07.hour.[3]

## 13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

Additional Materials Cost: $1,347,218

| Description of costs | Unit Cost | Notices/Statements | Total Cost |
|---|---|---|---|
| Printing and mailing change of terms notices (1030.5(a)) | $ 0.30 | 4,545,809 | $1,345,560 |
| Printing and mailing of notices before maturity for time deposits (1030.5(b & c)) | $ 0.30 | 5,603 | $ 1,658 |
| | | | |
| **CFPB materials cost:** | **$1,347,218** | | |

The above calculations take into account both the Bureau's share of the total notices and statements sent out within a year, as well as the amount of these notices that are sent electronically, and therefore have no printing and mailing cost. The materials costs were based on bulk mailing rates from the USPS as well as bulk costs of paper and envelopes.

## 14. Estimated Cost to the Federal Government

As the CFPB does not collect any information, there are no additional costs to the Federal Government.

## 15. Program Changes or Adjustments

**Exhibit 3: Summary of Burden Changes**

| | Total Respondents | Annual Responses | Burden Hours | Cost Burden (O & M) |
|---|---|---|---|---|
| Total Requested | 129 | 34,380,496 | 573,008 | $1,347,218 |
| Current OMB Inventory | 142 | 378,960 | 23,000 | $0 |
| Difference (+/-) | -7 | 34,001,536 | 550,008 | $1,347,218 |
| Program Change | 0 | 0 | 0 | $0 |

[3] This is a fully-loaded wage rate, derived from both hourly wages and the percent of total compensation wages make up. Hourly rate labor costs are the median hourly wages from the Bureau of Labor and Statistics (BLS) for affected occupational groups. Occupational groups for the PRA burden of this burden are defined as financial clerks (http://www.bls.gov/ooh/office-and-administrative-support/financial-clerks.htm#tab-1), whose median pay was $17.44 as of 2014, the latest available rate at the time of publishing. According to the BLS, wages accounted for 66.9% of the total cost of compensation for credit intermediation and related activities (http://www.bls.gov/news.release/archives/ecec_09102014.pdf), so the fully-loaded wage is $17.44/.669=$26.07.

| | | | | |
|---|---|---|---|---|
| Discretionary | 0 | 0 | 0 | $0 |
| New Statute | 0 | 0 | 0 | $0 |
| Violation | 0 | 0 | 0 | $0 |
| Adjustment | -7 | 34,001,536 | 550,008 | $1,347,218 |

The increases in burden and costs are the result of an improved methodology of calculating these measures as opposed to any regulation change, and therefore the new requests should be seen as a more accurate representation of the true costs and burdens of Regulation DD.

**16. <u>Plans for Tabulation, Statistical Analysis, and Publication</u>**

There are no plans to provide any publications based on the information collection of this regulation.

**17. <u>Display of Expiration Date</u>**

The OMB control number and expiration date associated with this PRA submission will be displayed on the Federal government's electronic PRA docket at www.reginfo.gov, as well as in the Code of Federal Regulations (CFR). There are no required forms or other documents upon which display of the control number and expiration date would be appropriate.

**18. <u>Exceptions to the Certification Requirement</u>**

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.

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## SUPPORTING STATEMENT PART B – COLLECTIONS USING STATISTICAL METHODS

Not applicable. The information collection requirements contained in Regulation DD do not involve the use of statistical methods.

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