

**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 – FINAL RULE)**

OMB TERMS OF CLEARANCE: On June 25, 2013, OMB approved this collection with the following conditions: “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 requirements under Regulation E. The burden numbers for the below requirements reflect the Bureau’s research, outreach and analysis.

Further, on February 11, 2015, OMB filed a comment on our proposed rule noting: “Terms of the previous clearance remain in effect. Pursuant to 5 CFR 1320.11(c), OMB files this comment on this information collection request (ICR). The agency shall examine public comment in response to the NPRM and will describe in the supporting statement of its next collection any public comments received regarding the collection as well as why (or why it did not) incorporate the commenter’s recommendation. The next submission to OMB must include the draft final rule.”

The Bureau has complied with both of these requests.

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 provide protections for consumers in the United States who send remittance transfers to persons in a foreign country. On November 22, 2016, the Bureau published a final rule that amends Regulation E as well as Regulation Z, which implements the Truth in Lending Act, and the official interpretations to the regulations, to provide comprehensive protections for consumers who use “prepaid accounts.” In addition, it modifies general Regulation E requirements to create tailored provisions governing disclosures, limited liability and error resolution, and periodic statements, and adds new requirements regarding the posting of account agreements. Additionally, the final rule amends Regulations E and Z to

regulate overdraft credit features offered in connection with prepaid accounts. 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.

The Bureau extended the effective date of the final rule and made other amendments in 2017 and 2018 final rules, as discussed below. The Bureau concluded that neither of these amendments materially affected the information collections or burden estimates associated with the Prepaid Account Final Rule and therefore the Bureau made no changes to the information collections or burden estimates contained in this document.

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. The EFTA and Regulation E also provide protections for consumers in the United States who send remittance transfers to persons in a foreign country.

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). On May 22, 2013, the Bureau published a rule (the 2013 Final Rule) which modified the 2012 Final Rule to make optional, in certain circumstances, the requirement to disclose fees imposed by a designated recipient's institution and taxes collected by a person other than the remittance transfer provider, and to instead require disclaimers to the 2012 Final Rule's disclosures indicating that the recipient may receive less than the disclosed total. The 2013 Final Rule also revised the error resolution provisions that apply when a remittance transfer is not delivered to a designated recipient in certain situations. The CFPB has subsequently amended subpart B of Regulation E on several other 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. It 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 ensures that records that might contain evidence of violations of the EFTA remain available to Federal agencies, as well as to private litigants.

In addition, § 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, provided that the usage accurately reflects, as applicable, an entity's EFT services and/or remittance transfer services. *Id.*

2016 Final Rule on Prepaid Accounts

On November 22, 2016, the Bureau released a final rule that amends Regulations E and Z and the official interpretations to the regulations to provide protections for consumers who use prepaid accounts (the Prepaid Account Final Rule or final rule).¹ The rule adds the term prepaid account to Regulation E and generally applies existing Regulation E protections to prepaid accounts and also adopts certain tailored provisions for such accounts. Prepaid accounts include payroll card accounts and government benefit accounts. It also includes accounts that are marketed or labeled as "prepaid" and that are redeemable upon presentation at multiple, unaffiliated merchants for goods or services or usable at automated teller machines; and other accounts that are (1) issued on a prepaid basis in a specified amount or not issued on a prepaid basis but capable of being loaded with funds thereafter; and (2) whose primary function is to conduct transactions with multiple, unaffiliated merchants for goods or services, or at automated teller machines, or to conduct person-to-person transfers. The definition excludes checking accounts, share draft accounts, and negotiable order of withdrawal accounts.

The Bureau adopted additional disclosure requirements for prepaid accounts pursuant to its authority under the EFTA and the Dodd-Frank Act in the Prepaid Account Final Rule. See new §§ 1005.15(c) and 1005.18(b). The Prepaid Account Final Rule adopts requirements that expand the account opening requirements in 12 CFR 1005.7(b)(5) as applied to prepaid accounts to require the disclosure of all fees that may be imposed in connection with the prepaid account, not just fees for EFTs or the right to make transfers. Further, the final rule contains new requirements that provide, among other things, that financial institutions must make certain disclosures available to consumers before a consumer agrees to acquire a prepaid account. The Prepaid Account Final Rule also adopts new § 1005.19 to require prepaid account issuers to post agreements for prepaid accounts on their websites and to submit the agreements to the Bureau. The Bureau's final rule provides an alternative method of compliance to the periodic statement requirement of Regulation E. See § 1005.18(c)(1).

2017 Effective Date Delay

On April 25, 2017, the Bureau published a final rule extending the effective date of most of the provisions of the Prepaid Account Final Rule by six months, to April 1, 2018 (82 FR 18975) (Prepaid Effective Date Final Rule).

2018 Prepaid Account Final Rule Amendments

On February 13, 2018, the Bureau published a final rule amending various aspects of the Prepaid Account Final Rule, and extending the effective date of the entire rule to April 1, 2019

¹ The Bureau is publishing a supporting statement concurrently with this supporting statement that focuses on the final rule's new Regulation Z requirements. This supporting statement is focused on EFTA and the Regulation E requirements.

(83 FR 6364) (Prepaid Amendments Final Rule).

In the course of the Bureau's standard work to help industry implement the Prepaid Account Final Rule, some industry participants raised concerns about what they described as unanticipated complexities arising from the interaction of certain aspects of the rule with certain business models and practices, including those newly adopted, that industry participants did not fully address in their comment letters on the Bureau's notice of proposed rulemaking in 2014 governing prepaid accounts (79 FR 77101, Dec. 23, 2014). They indicated that these issues could complicate implementation and affect consumers. Because industry participants had not raised these concerns prior to the finalization of the Prepaid Accounts Final Rule, the Prepaid Amendments Final Rule was proposed and finalized largely in response to those concerns.

The Prepaid Amendments Final Rule amended the Prepaid Account Final Rule to provide that Regulation E's error resolution and limited liability requirements do not extend to prepaid accounts that have not successfully completed the financial institution's consumer identification and verification process (i.e., accounts that have not concluded the process, accounts where the process is concluded but the consumer's identity could not be verified, and accounts in programs for which there is no such process). For accounts where the consumer's identity is later verified, financial institutions are not required to resolve errors and limit liability with regard to disputed transactions that occurred prior to verification. The Bureau also made related changes to model disclosure language.

In addition, the Bureau made clarifications or minor adjustments to a number of provisions in the rule, in response to feedback received from stakeholders. These clarifications and adjustments cover an exclusion from the definition of prepaid account, several aspects of the rule's pre-acquisition disclosure requirements, and submission of prepaid account agreements to the Bureau.

While the Prepaid Amendments Final Rule modified certain requirements in the Prepaid Account Final Rule, including with respect to disclosures and other information collections, the Bureau concluded that those modifications do not result in material changes to the information collections or burden estimates discussed in this supporting statement.

Prepaid Account Agreement Technical Specifications

On March 6, 2019, the Bureau published a notice in the *Federal Register* containing technical specifications pertaining to the requirement in § 1005.19 that prepaid account issuers submit their prepaid account agreements to the Bureau (84 FR 7979) (Technical Specifications). The Technical Specifications provide additional details regarding requirements contained in the Prepaid Account Final Rule, including the URL for the website at which issuers (or their designees) submit their prepaid account agreements, information regarding file formats, and the location of compliance resources to help issuers submit their agreements. The Technical Specifications do not add or modify any information collections.

2. Use of the Information

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, including in the Prepaid Account Final Rule, Regulation E permits 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 EFTs, 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 “card issuers” under Regulation Z that would be required to submit prepaid account agreements to the Bureau pursuant to § 1005.19(b) of the final rule and open-end credit card account agreements pursuant to Regulation Z § 1026.58(c). The Bureau notes, however, that it does not believe it is likely that any agreement will constitute both a credit card agreement and a prepaid account agreement. As noted above, the final rule amends Regulations Z and E to regulate prepaid accounts with credit features. It generally requires that credit features covered under the final rule be distinct from the asset portion of the prepaid account—structured as a separate credit account or a credit sub-account to the asset account—to facilitate transparency and compliance with various Regulation Z requirements. Accordingly, the Bureau does not believe that an agreement will be required to be submitted twice (*i.e.*, under both Regulation E § 1005.19 and Regulation Z § 1026.58.) Prepaid account issuers that offer open-end overdraft credit features accessible by hybrid prepaid-credit cards, however, will have to submit their credit card agreements under Regulation Z and the prepaid account agreements under Regulation E.

5. Efforts to Minimize Burdens on Small Entities

As discussed above, the Prepaid Account Final Rule imposes 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 final rule, will 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 final rule also includes, model and sample forms that may be used to aid compliance with many of its disclosure requirements. Correct use of model 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 disclosure requirements set forth in current Regulation E and the final rule 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, on December 23, 2014 the Bureau published a notice of proposed rulemaking in the *Federal Register* (79 FR 77102) 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 are addressed in the final rule's Supplementary Information.

The Bureau also published notices of proposed rulemaking in the *Federal Register* prior to finalizing the Prepaid Effective Date Final Rule (82 FR 13782, Mar. 15, 2017) and the Prepaid Amendments Final Rule (82 FR 29630, June 29, 2017). Comments received in response to these notices of proposed rulemaking are addressed in the respective final rule's Supplementary Information. In both cases, the Bureau did not receive any comments relating to the information collection requirements or burden estimates in response to those proposed rules.

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 will be collected pursuant to new § 1005.19(b) will 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: 3,445,033²

Total Associated Labor Costs: \$102,103,488

CFPB’s burden, By Information Collection

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Annual responses</i>	<i>Average time per response</i>	<i>Estimated annual burden hours</i>
Transaction Receipts	100,000	40	4,000,000	1.2 minutes	80,000
Change in Terms	100,000	10	1,000,000	16.5 minutes	275,000
Payroll Disclosures	600,000	1	600,000	90 minutes	900,000
Recordkeeping	600,000	1	600,000	58.3 minutes	583,000
Error Resolution	100,000	10	1,000,000	3.96 minutes	66,000
Maintenance and Error Resolution, depository institutions (ongoing)	153	1	153	350.75 hours	53,664
Maintenance and Error Resolution, non-depository institutions (ongoing)	33,500	1	33,500	41.905 hours	1,403,818
Prepaid Account Short Form Additional Fee Type Disclosure, depository institutions (ongoing)	18	12	216	240 minutes	864
Prepaid Account Short Form Additional Fee Type Disclosure, non-depository institutions (ongoing)	142	12	1704	120 minutes	3,408
Prepaid Account Error Resolution, depository institutions (ongoing)	2	539	1078	30 minutes	539

² 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 1,468,000 hours of ongoing burden estimated for the Final Rule; (3) the reduction of 10,494 hours in on-going burden from the 2013 Final Rule; and (4) the 76,343 hours of one-time burden and 7,207 hours of ongoing burden estimated for the Final Rule for Prepaid Accounts.

Prepaid Account Error Resolution, non-depository institutions (ongoing)	18	539	9702	15 minutes	2,426
Submission of Prepaid Account Agreements, depository institutions (ongoing)	36	5	180	5 minutes	15
Submission of Prepaid Account Agreements, non-depository institutions (ongoing)	10	5	50	3 minutes	2
Prepaid Account Short Form Disclosure, depository institutions (one time)	18	1	18	474.9 hours	8,548
Prepaid Account Short Form Disclosure, non-depository institutions (one time)	142	1	142	237.5 hours	33,725
Prepaid Account Long Form Disclosure, depository institutions (one time)	18	1	18	95 hours	1,710
Prepaid Account Long Form Disclosure, non-depository institutions (one time)	142	1	142	47.5 hours	6,745
Access to Prepaid Account Information, depository institutions (one time)	18	1	18	284.9 hours	5,128
Access to Prepaid Account Information, non-depository institutions (one time)	142	1	142	142.45 hours	20,228
Prepaid Account Error Resolution, depository institutions (one time)	2	1	2	14.9 hours	30

Prepaid Account Error Resolution, non-depository institutions (one time)	18	1	18	7.45 hours	134
Submission of Prepaid Account Agreements, depository institutions (one time)	36	1	36	2.4 hours	86
Submission of Prepaid Account Agreements, non-depository institutions (one time)	10	1	10	1.2 hours	12
Total			7,247,128		3,445,033³

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.⁴ 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.⁵

³ Individual entries may not sum to total due to rounding.

⁴ 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.

⁵The 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.

2016 Final Rule for Prepaid Accounts

The estimated burden on Bureau respondents from the final rule's changes to Regulation E are summarized below.⁶

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Annual responses</i>	<i>Average time per response</i>	<i>Estimated annual burden hours</i>
Prepaid Account Short Form Disclosure, depository institutions (one time)	18	1	18	474.9 hours	8,548
Prepaid Account Short Form Disclosure, non-depository institutions (one time)	142	1	142	237.5 hours	33,725
Prepaid Account Long Form Disclosure, depository institutions (one time)	18	1	18	95 hours	1,710
Prepaid Account Long Form Disclosure, non-depository institutions (one time)	142	1	142	47.5 hours	6,745
Access to Prepaid Account Information, depository institutions (one time)	18	1	18	284.9 hours	5,128
Access to Prepaid Account Information, non-depository institutions (one time)	142	1	142	142.45 hours	20,228
Prepaid Account Error Resolution, depository institutions (one time)	2	1	2	14.9 hours	30
Prepaid Account Error Resolution, non-depository institutions (one time)	18	1	18	7.45 hours	134
Submission of Prepaid Account Agreements, depository institutions (one time)	36	1	36	2.4 hours	86

⁶ Note this chart is a subset of the burden chart above, not additional burden

Submission of Prepaid Account Agreements, non-depository institutions (one time)	10	1	10	1.2 hours	12
Total			546		76,347⁷

The Bureau’s PRA estimation methodology assumes that one-time burden increases with the number of programs and fee schedules operated by a program manager.⁸ Ongoing burden may increase with the number of programs, the number of fee schedules, the number of customers, or some combination of the three. However, both one-time and ongoing PRA burden from the final rule is minimal. Most providers of prepaid accounts already comply with the current requirements of Regulation E, as they apply to payroll card accounts, for their prepaid account programs. The additional requirements generally require small extensions or revisions to existing practices. Finally, there may be several participants in the prepaid account supply chain for any given prepaid account program and the activities of the participants may vary across prepaid account 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. Final § 1005.18(f)(1) expands 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 EFTs. However, the Bureau understands that most fees are currently generally disclosed at account opening. Thus, the one-time and ongoing burden from this requirement should be minimal.

Providers offering certain EFT services for prepaid accounts are also required to provide transaction disclosures under the final rule. For example, a disclosure is required for transactions conducted at an automated teller machine. The Bureau believes that most or all providers currently give these disclosures. In the alternative, however, 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 prepaid account provider is 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 provider 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 provider or the payee will need to notify the

⁷ The discrepancy of 4 hours from the total of 76,343 comes from rounding differences due to the number of significant figures used in each calculation

⁸ 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.

consumer of payment variations. Because in the vast majority of instances the payee, rather than the account provider, will satisfy this obligation, the burden on providers is minimal.

The Bureau is requiring that a prepaid account provider makes available to a consumer before the consumer acquires a prepaid account a short form disclosure, pursuant to § 1005.18(b)(2), and, subject to certain exceptions provided in § 1005.18(b)(1), the Bureau is requiring that a provider make available a long form disclosure required by § 1005.18(b)(4) in advance as well. The Bureau estimates that providers, including Bureau respondents, will take 40 hours per prepaid account fee schedule, on average, to develop the short form disclosure and to update systems. The Bureau understands that each provider has 11.9 fee schedules on average, so this activity would take about 474.9 hours total per provider, of which the Bureau allocates to itself half (237.5 hours) when the provider is a non-depository institution. Providers will take 8 hours every 24 months for each prepaid account fee schedule (47.5 hours annually per provider) to evaluate and if necessary update the additional fee types disclosure on the short form. The Bureau allocates to itself half of the burden (23.7 hours) when the provider is a non-depository institution. Providers will 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, will take on average 8 hours per prepaid account fee schedule 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.⁹

Final § 1005.18(f)(3) requires that certain disclosures be made on the actual prepaid account access device. These disclosures include the name of the financial institution and the website URL and a telephone number a 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 final rule requires providers offering prepaid accounts to provide periodic statements unless they use the alternative method of compliance in § 1005.18(c)(1). The Bureau expects that most providers will use the alternative method of compliance. The Bureau's Study of Prepaid Account Agreements¹⁰ and its industry research found that most programs provide electronic access to account information; and while few agreements stated that the program provided at least 12 months of prepaid account transaction history, many programs provided access to account information for much longer time frames than what was listed in the account agreements. In addition, several commenters stated that they provided 12 months of electronic

⁹ Final § 1005.18(b)(4)(vii) requires that the long form disclosure include the disclosures described in Regulation Z § 1026.60(e)(1) or (2)(ii), regarding credit card applications and solicitations, if at any point a covered separate credit feature accessible by a hybrid prepaid credit card as defined in Regulation Z § 1026.61 may be offered in connection with the prepaid account. This burden will be minimal given the Bureau's burden estimation methodology for Regulation Z, as explained in the Prepaid Account Final Rule. Under final § 1005.18(b)(9), in certain circumstances, a financial institution that principally uses a foreign language must provide both the short form and long form disclosures in that foreign language. The Bureau believes that current industry practice regarding pre-acquisition disclosures in foreign languages is generally consistent with this requirement. The long form disclosure must also be provided in English upon the consumer's request, but this will be a minimal one-time and ongoing expense.

¹⁰ Consumer Financial Protection Bureau, *Study of Prepaid Account Agreements* (Nov. 2014), available at http://files.consumerfinance.gov/f/201411_cfpb_study-of-prepaid-account-agreements.pdf (Bureau's Study of Prepaid Account Agreements).

transaction history. Regarding the requirement to provide a transaction history in writing pursuant to § 1005.18(c)(1)(iii), commenters have indicated that few consumers ever request a written transaction history. The Bureau understands that prepaid programs generally do not provide a summary total of all fees assessed against the consumer's prepaid account for the prior calendar month and for the calendar year to date. Under the final rule, this information must be disclosed on any periodic statement and any electronic or written history of account transactions provided. The Bureau estimates that providers will take on average 24 hours per prepaid account fee schedule to implement these changes.

The final rule extends to all prepaid accounts the limited liability and error resolution provisions of Regulation E, as they apply to payroll card accounts.¹¹ 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 will 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.

If a prepaid account provider changes a prepaid account's terms and conditions as a result of the final rule taking effect such that a change-in-terms notice would have been required under § 1005.8(a) or § 1005.18(f)(2) for existing customers, a provider must notify consumers with accounts acquired before October 1, 2017 at least 21 days in advance of the change becoming effective, provided the provider has the consumer's contact information. If the provider obtains the consumer's contact information less than 30 days in advance of the change becoming effective or after it has become effective, the provider is permitted instead to notify the consumer of the change within 30 days of obtaining the consumer's contact information. Financial institutions with prepaid accounts that offer overdraft credit features are likely to trigger this requirement. Final § 1005.18(h)(2)(ii) requires that providers notify any consumer, who acquires a prepaid account on or after October 1, 2017 via packaging materials that were manufactured, printed or otherwise produced prior to October 1, 2017, of any changes as a result of the final rule taking effect such that a change-in-terms notice would have been required under § 1005.8(a) or § 1005.18(f)(2) for existing customers within 30 days of acquiring the customer's contact information. In addition, providers must also mail or deliver updated initial disclosures pursuant to § 1005.7 and § 1005.18(f)(1) within 30 days of obtaining the consumer's contact information. Those providers that are affected should not incur significant costs to notify consumers and provide updated initial disclosures. Consumers who have consented to electronic communication may receive the notices and updated disclosures electronically, at a minimal cost

¹¹ The Prepaid Amendments Final Rule finalized an exception from the limited liability and error resolution provisions of Regulation E for prepaid accounts (other than payroll card accounts and government benefit accounts) for which the financial institution has not successfully completed its collection of consumer identifying information and identity verification process with respect to that prepaid account. § 1005.18(e)(3).

to providers. Those consumers who cannot be contacted electronically may receive the notices and updated initial disclosures with another scheduled mailing within the specified time periods. Providers will incur small costs to print these notices and disclosures, but it is unlikely that providers will incur additional mailing costs. Any remaining consumers who are not scheduled to receive mailings may be notified electronically without regard to the consumer notice and consent requirements of section 101(c) of the E-Sign Act.

Final § 1005.19(b) requires prepaid account issuers to submit to the Bureau, on a rolling basis, short form disclosures and prepaid account agreements (including fee schedules) that the issuer offers or has amended, or notification that the issuer is withdrawing a previously submitted agreement. The Bureau estimates that each issuer will initially take 1 hour to register and spend 5 minutes to upload each of 17 agreements (our estimate of the overall average number of fee schedules per issuer). Thus the one-time burden is 145 (= 60 + (5*17)) minutes or 2.42 hours per issuer. There is considerable uncertainty regarding the number of issuers that will offer, amend or withdraw an agreement each year on an ongoing basis and the number of agreements that each issuer will offer, amend or withdraw. The Bureau’s experience with the submission of credit card agreements pursuant to § 1026.58 of Regulation Z suggests that issuers who upload agreements will upload at most 5 agreements annually on an ongoing basis.¹² We assume that every issuer uploads 5 agreements annually on an ongoing basis, so our estimate is an upper bound on the burden.

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

There are no other costs associated with this information collection other than what is discussed above in #12.

14. Estimated Cost to the Federal Government

The Bureau incurs no unique costs as a result of this data collection. The collection of prepaid account agreements will be conducted with existing program staff and resources.

15. Program Changes or Adjustments

Summary of Burden Changes

	Annual Responses	Burden Hours	Cost Burden (O & M)
Total Burden Hours Requested	7,247,128	3,445,033	0
Current OMB	7,237,760	4,014,300	0

¹² In a recent analysis of submissions for the third quarter of 2014, the Bureau found 103 credit card issuers submitted 429 agreements in a single quarter, so just over four per issuer. 80 FR 21153, 21156. We repeated this analysis using submissions for all of 2014, which is the last year of data available, and found that 210 credit card issuers submitted 1002 agreements, so just under five per issuer. See <http://www.consumerfinance.gov/credit-cards/agreements/>.

Inventory			
Difference (+/-)	+9,368	-569,267	0
Program Change	13,476	76,347	0
Discretionary	13,476	76,347	0
Due to New Statute	0	0	0
Violation	0	0	0
Adjustment	-4,108	-652,817	0

The changes to Regulation E, imposed by this rule will result in 76,347 hours of one-time and ongoing burden. However, the Bureau is also removing 652,817 hours in one time burden imposed by previous rule changes that the Bureau estimates have now been fully absorbed by the affected entities. Therefore the Bureau is requesting a net burden reduction of 569,267 hours.

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. This collection does not employ statistical methods or produce generalizable results from its data collections