

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

**SUPPORTING STATEMENT PART A**

**PAYDAY, VEHICLE TITLE, AND CERTAIN HIGH-COST INSTALLMENT LOANS  
(12 CFR PART 1041)  
(OMB CONTROL NUMBER: 3170-XXXX)**

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**OMB TERMS OF CLEARANCE:** Not applicable. This is a request for a new Office of Management and Budget (OMB) control number.

**ABSTRACT:** This regulation applies to non-depository institutions and loan brokers engaged in consumer lending, credit intermediation activities, or activities related to credit intermediation, along with banks and credit unions that make loans that are subject to the rule. The purpose of this rule is to identify certain unfair and abusive acts or practices in connection with certain consumer credit transactions, to set forth requirements for preventing such acts or practices, and to provide certain partial conditional exemptions from aspects of this rule. This rule also contains requirements to ensure that the features of those consumer credit transactions are fully, accurately, and effectively disclosed to consumers. This rule also contains processes and criteria for registration of information systems.

**JUSTIFICATION**

**1. Circumstances Necessitating the Data Collection**

The Bureau is issuing a new rule for payday, vehicle title, and certain high-cost installment loans (12 CFR part 1041) pursuant to Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5481, *et seq.*).

The purpose of this rule is to identify certain unfair and abusive acts or practices in connection with certain consumer credit transactions and to set forth requirements for preventing such acts or practices (*See* 12 U.S.C. 5531). It prescribes requirements to ensure that the features of those consumer credit transactions are fully, accurately, and effectively disclosed to consumers and prescribes processes and criteria for registration of information systems. The rule also provides certain partial conditional exemptions from aspects of this rule.

For most consumers, credit provides a means of purchasing goods or services and spreading the cost of repayment over time. Consumers living paycheck to paycheck and with little to no

savings have used credit as a means of coping with shortfalls, with the credit allowing them to cover miscellaneous living and short-term expenses until they receive additional income. These shortfalls can arise from mismatched timing between income and expenses, misaligned cash flows, income volatility, unexpected expenses or income shocks, or expenses that simply exceed income. Whatever the cause of the shortfall, consumers in these situations sometimes seek what may broadly be termed a “liquidity loan.” There are a variety of loans and products that consumers use for these purposes including credit cards, home equity loans and lines of credit, deposit account overdraft, pawn loans, payday loans, vehicle title loans, and installment loans.

Credit cards, home equity loans and lines of credit, and deposit account overdraft services are already subject to federal consumer protection regulations and requirements. The Bureau considers these markets to be outside the scope of this rulemaking. This rulemaking is focused on three general categories of liquidity loan products: (1) short-term loans, (2) longer-term balloon payment loans, and (3) certain higher-cost longer-term installment loans. The largest category of short-term loans are “payday loans,” which are generally required to be repaid in a lump-sum single payment on receipt of the borrower’s next income payment, and short-term vehicle title loans, which are also almost always due in a lump-sum single payment, typically within 30 days after the loan is made. The second category consists of longer-term loans with a balloon payment, which the rule generally defines as having a single payment or, where there are multiple payments, a payment that is at least twice as large as any other payment. The third category consists of higher-cost longer-term installment loans. It includes both what are often referred to as “payday installment loans”—that is, loans that are repaid over time with each payment timed to be paid with the borrower’s income payment and electronically deducted from an account into which the income payment is deposited—and vehicle title installment loans. While loans covered by this rulemaking are most often made by non-bank lenders, some depository institution products also fit these descriptions. Some of these loans are available at storefront locations and branches, others are available on the Internet, and some loans are available through multiple delivery channels. The rulemaking covers both closed-end loans and open-end lines of credit.

The rule’s underwriting provisions, consisting of §§ 1041.4 to 1041.6 apply to the first and second categories, covered short-term and longer-term balloon-payment loans. Section 1041.10 likewise applies to those two categories. The rule’s payment provisions, consisting of §§ 1041.7 to 1041.9 apply to all three categories. Section 1041.12 and 1041.13 likewise apply to all three categories.

## **2. Use of the Information**

The Bureau’s rulemaking includes information collection requirements related to (1) development, implementation, and continued use of notices for covered short-term loans made under § 1041.6, upcoming payment notices (including unusual payment notices), and consumer rights notices; (2) obtaining a consumer report from a registered information system; (3)

furnishing information about consumers' borrowing behavior to each registered information system; (4) retrieval of borrowers' national credit report information; (5) collection of consumers' income and major financial obligations during the underwriting process; (6) obtaining a new and specific authorization to withdraw payment from a borrower's deposit account after two consecutive failed payment transfer attempts; (7) application to be a registered information system; (8) biennial assessment of the information security programs for registered information systems; (9) retention of loan agreement and documentation obtained when making a covered short-term loan or covered longer-term balloon payment loan, and, along with the loan type and term, and payment history and loan performance.

Loan disclosures would be provided, as applicable, by lenders or vendors working on their behalf. Under the rule, disclosures may be provided through a variety of channels, including electronically. First, under § 1041.6, the rule would require lenders to provide an origination disclosure for certain covered short-term loans; this disclosure would communicate to consumers important information about the costs, benefits, and risks of these loans. Section 1041.6 would also require a disclosure after the third loan in a sequence of loans covered by that section. Second, under § 1041.9, the rule would require lenders making covered loans to provide disclosures before initial payment withdrawal attempts, and before any unusual withdrawal attempts. The payment notice would alert consumers to the upcoming withdrawal, including potential changes to the typical payment amount, thereby mitigating the risk of certain adverse consequences associated with payment transfer attempts when the consumer's account lacks sufficient funds. Third, also under § 1041.9, the rule would also require lenders to provide a consumer rights notice in certain circumstances when two payment transfer attempts have failed. Lenders making covered loans would be required to provide this notice, as applicable. The consumer rights notice would ensure that the costs, benefits, and risks of the loan and associated payments are effectively disclosed to consumers.

Under §§ 1041.5 and 1041.6, lenders would also obtain information about consumer use of covered loans by obtaining a consumer report from a registered information system. For covered loans subject to the ability-to-repay requirements in the rule, obtaining and reviewing a consumer report from a registered information system would be instrumental to determining the consumer's borrowing history. Together with the national consumer report and other underwriting documents described below, information about the consumer's use of covered short-term and longer-term balloon-payment loans would facilitate reliable ability-to-repay determinations. For loans made under §§ 1041.5 and 1041.6, obtaining and reviewing a consumer report from a registered information system would ensure that the consumer is eligible for such a loan.

Under § 1041.10 lenders would also provide information about consumer use of covered short-term and longer-term balloon-payment loans by furnishing information to each registered information system. For these covered loans, furnishing information about the consumer's borrowing behavior to each registered information system would ensure that the consumer

reports lenders obtain from these systems are sufficiently timely and accurate to achieve the consumer protections that are the goal of this part.

Under § 1041.5 lenders would obtain a national credit report, other underwriting documents, such as documents verifying income and a borrowing report from an RIS, and potentially stated housing or income expenses for covered short-term and longer-term balloon-payment loans subject to the ability-to-repay requirements. Under the rule, these documents can be collected through a variety of channels, including electronically, such as from a specialty consumer reporting agency, the consumer, and potentially a nationwide consumer reporting agency. The collection, and review, of the national consumer report and other underwriting documents would enable the lender to verify information about the amount of a consumer's income and major financial obligations, thereby facilitating reliable ability-to-repay determinations.

Under § 1041.8, lenders would obtain a new and specific authorization from a consumer in order to withdraw payment from a consumer's deposit account after two consecutive payment transfer attempts have failed. The new and specific authorization would ensure that consumers maintain control of their deposit account and enable the lender to withdraw payments on a covered loan from the consumer's deposit account after two consecutive failed payment transfer attempts.

Under § 1041.11, applications to be a registered information system would be submitted to the Bureau by entities seeking to be registered. The process for becoming a registered information system prior to the effective date of § 1041.11 would require an entity to submit an application for preliminary approval with information and documentation sufficient to determine that the entity would be reasonably likely to satisfy the conditions to become a registered information system. If an entity obtains preliminary approval by the Bureau, it would need to provide certain written assessments contemplated by the rule and submit an application to be a registered information system; the rule would also permit the Bureau to require an entity to submit to the Bureau additional information and documentation to facilitate determination of whether the entity satisfies the eligibility criteria to become a registered information system. On or after the effective date of § 1041.11, an entity may become provisionally registered by submitting an application that contains information and documentation sufficient to determine that the entity satisfies the conditions to become a registered information system, including written assessments contemplated by the rule. An information system that is provisionally registered under this approach will automatically become a registered information system upon the expiration of a 180-day period. Once an entity is a registered information system, the rule would require the entity to submit biennial assessments of its information security program. The rule's requirement to submit to the Bureau the applications and written assessments described above is essential to the Bureau's ability to ensure that registered information systems would enable lender compliance with the requirements of the rule so as to achieve the consumer protections therein and to confirm that the information systems maintain compliance programs reasonably designed to ensure compliance with applicable laws and prevent the risk of data breach.

Under § 1041.12 lenders would be required to retain several types of documentation related to evidence of compliance with the requirements of the rule. The rule requires lenders to use electronic records to satisfy certain recordkeeping requirements. The recordkeeping requirements would facilitate the Bureau's supervision and enforcement of the requirements of the rule.

### **3. Use of Information Technology**

The rule is conscious of the use of information technology and other automated means as a solution to potentially reduce or limit the information collection burdens associated with the rule. For example, the required disclosures could be made electronically through various means, and required reports could also be obtained and retained electronically. Additionally, the recordkeeping provision in § 1041.12 would not limit the use of available technology to maintain required records. The rule would allow covered persons to retain records in any legible form, and in the same manner, format, or place as such records are kept in the ordinary course of business (*See* § 1041.12(b)). The rule does, however, require lenders to retain certain data in an electronic, tabular format. Thus, this rule is consistent with the aims of the Government Paperwork Elimination Act, 44 U.S.C. 3504.

### **4. Efforts to Identify Duplication**

The recordkeeping, reporting, and disclosure provisions in the rule would not duplicate any other Federal information collection requirement. The information collection requirements are unique to this rule.

### **5. Efforts to Minimize Burdens on Small Entities**

The disclosure, reporting, and recordkeeping requirements would be imposed on all lenders making covered short-term and longer-term balloon-payment loans, and some of the disclosure and recordkeeping requirements would apply to covered high-cost installment loans as well. The Bureau estimates that approximately 90% of respondents are small entities. Most lenders today utilize some measure of computerization in their business, and the rule would permit lenders to rely on computer support, among other alternatives, to meet their recordkeeping, reporting, and disclosure requirements. This flexibility presumably would yield reduced disclosure, reporting, and recordkeeping costs (*see* section 3 of this supporting statement, above). The rule also provides model forms that could be used to comply with certain of its requirements, and lenders that use the model forms would be deemed to be in compliance with the disclosure requirement with respect to such model forms.

The Bureau held a SBREFA panel on the rulemaking for payday, vehicle title, and similar loans on April 29, 2015. Representatives for small entities were given questions to consider about the impact of the proposals under consideration. The representatives provided feedback about how

their businesses function, how the proposals under consideration would affect their business, and provided existing studies and research that cover the markets affected by the proposals under consideration.

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

If the rule, including the information collection requirements contained therein, is not adopted, some of the most vulnerable consumers who rely on the loan products that are covered by this rule would not have the protections contained in the rule that are intended to prevent certain unfair and abusive acts or practices in connection with certain consumer credit transactions.

Without the recordkeeping and reporting requirements, the Bureau would not have a tangible mechanism to ensure that consumers are receiving the protections contained in the rule.

## **7. Circumstances Requiring Special Information Collection**

There are no special circumstances. The collection of information requirements 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 July 22, 2016 the Bureau published a notice of proposed rulemaking in the *Federal Register*, 81 FR 47863, inviting the public to comment on the information collection requirements contained in this rule. The Bureau received over 1.4 million comments<sup>1</sup> which are summarized along with the Bureau's response to those comments in the preamble to the Notice of Final Rulemaking.

The Bureau has been studying and conducting market monitoring activities of the markets for liquidity loans for more than five years, gaining insights from a variety of sources. During this time the Bureau has also conducted supervisory examinations of a number of payday lenders and enforcement investigations of a number of different types of liquidity lenders. Through all of these activities, the Bureau has gained insights into the business models and practices of such lenders and also has obtained extensive loan-level data that the Bureau has studied to better understand risks to consumers. The Bureau has published four reports based upon these data along with a supplemental report included with the issuance of the Notice of Proposed Rulemaking. The Bureau has also carefully reviewed the published literature with respect to small dollar loans and a number of outside researchers have presented their research at seminars for Bureau staff. In addition, over the course of the past five years the Bureau has engaged in extensive outreach with a variety of stakeholders in

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<sup>1</sup> The large number of comments is in part due to coordinated campaigns led by lenders encouraging borrowers to submit pre-written forms.

both formal and informal settings, including several Bureau field hearings across the country specifically focused on the subject of small dollar lending, meetings with the Bureau's standing advisory groups, meetings with State and Federal regulators, meetings with consumer advocates, religious groups, and industry trade associations, consultations with Indian tribes, and through a Small Business Review Panel process.

The Bureau received numerous comments addressing the estimates of burden hours and costs subject to the rule. The Bureau provided several updates to burden hour and cost estimates with new viable data provided since the Notice of Proposed Rulemaking. Some burden hour and cost assumptions were left unchanged because no additional viable data was provided. More detailed responses to comments can be found in the Final Regulatory Flexibility Analysis and the Section 1022(b)(2) Analysis.

As part of the process under the Small Business Regulatory Enforcement and Fairness Act (SBREFA process), the Bureau released in March 2015 a summary of the rulemaking proposals under consideration in the Small Business Review Panel Outline. At the same time that the Bureau published the Small Business Review Panel Outline, the Bureau held a field hearing in Richmond, Virginia, to begin the process of gathering feedback on the proposals under consideration from a broad range of stakeholders. Immediately after the Richmond field hearing, the Bureau held separate roundtable discussions with consumer advocates and with industry members and trade associations to hear feedback on the proposals under consideration. On other occasions, the Bureau met with members of industry trade associations representing storefront payday lenders to discuss their feedback on the Small Business Review Panel Outline.

At the Bureau's Consumer Advisory Board (CAB) meeting in June 2015 in Omaha, Nebraska, a number of meetings and field events were held about payday, vehicle title, and similar loans. The CAB advises and consults with the Bureau in the exercise of its functions under the Federal consumer financial laws, and provides information on emerging practices in the consumer financial products and services industry, including regional trends, concerns, and other relevant information. The CAB events in June 2015 included a visit to a payday loan store, and a day-long public session that focused on the Bureau's proposals under consideration as well as trends in payday and vehicle title lending. The CAB has convened six other discussions on consumer lending. In June 2016, just a few days after the Bureau publicly released the proposed rule, the CAB held another public meeting on this topic in Little Rock, Arkansas. Among other things, Bureau officials gave a public briefing on the proposed rule to the CAB members, and the Bureau heard testimony from the general public on the subject. Two of the Bureau's other advisory bodies also discussed the proposals outlined in the Small Business Review Panel Outline: the Community Bank Advisory Council held two discussions, and the Credit Union Advisory Council conducted one discussion.

Bureau leaders, including the Director of the agency and staff, have spoken about the Bureau's work on payday, vehicle title, and installment lender at events and conferences throughout the country. These meetings have provided additional opportunities to gather insight and recommendations from both industry and consumer groups about how to formulate a rule. In addition to meetings with lenders and trade associations, and to information learned through supervisory and enforcement activities, Bureau staff has made fact-finding visits to at least 12 non-depository payday and vehicle title lenders, including those that offer single payment and installment loans.

See Part III of the Preamble to the rule for a full description of the Bureau's efforts to consult with parties outside of the Bureau on this rule.

### **9. Payments or Gifts to Respondents**

Not applicable. No payment, gifts, or other incentives are provided to respondents.

### **10. Assurances of Confidentiality**

The rule provides no assurance of confidentiality to entities that are covered by this rule. 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>.

To the extent that information covered by a recordkeeping requirement is collected by the Bureau for law enforcement purposes, the confidentiality provisions of the Bureau's rules on Disclosure of Records and Information, 12 CFR part 1070, would apply.

### **11. Justification for Sensitive Questions**

To the extent that the rule requires lenders to provide borrowers' personal financial information to a reporting agency, this reporting is necessary to carry out the purposes of the rule and carry out the rule's required ability-to-repay requirements.

### **12. Estimated Burden of Information Collection**

In calculating the potential burdens of information collections that are required by the rule, the Bureau generally relies on estimates of the market as it existed at the time of the Notice of Proposed Rulemaking. The actual burden hours are likely to be substantially smaller in light of the impact the rule will have on the number of covered persons and number of covered loans

originated. Using the Bureau’s burden estimation methodology, the total estimated burden for the approximately 9,900 institutions subject to the rule, including Bureau respondents, would be approximately 8,199,819 labor burden hours annually.

The aggregate estimates of total burdens are based on estimated costs that are averages across respondents. The Bureau expects that the amount of time required to implement each of the changes for a given institution may vary based on the size, complexity, and practices of the respondent. The Bureau assumes that the one-time costs to comply with requirements, such as software upgrades, includes costs to hire outside firms to assist with the implementation of the requirements. While the Bureau believes these costs to be marginal, these one-time cost estimates could potentially underestimate the true cost for some lenders.

**Exhibit 1: Burden Hour Summary <sup>2</sup>**

Information Collection Requirement	No. of Respondents	Type of IC	Frequency	Annual Responses	Average Response Time	Annual Burden Hours	Hourly Rate <sup>3</sup>	Annual Burden Hour Costs
Disclosures [§§ 1041.6(e) & 1041.9]	9,045	3 <sup>rd</sup> Party Disclosure	On occasion	235,903,844	0.013	3,054,872	\$21.19	\$64,723,890
Obtaining consumer report from a registered information system [§§ 1041.5 & 1041.6]	5,105	Recordkeeping	On occasion	118,918,138	0.019	2,293,466	\$16.10	\$36,935,129
Information furnishing requirements [§ 1041.10]	9,887	Reporting	On occasion	120,085,002	0.007	816,587	\$16.77	\$13,693,061
National Credit Report [§ 1041.5]	5,105	Recordkeeping	On occasion	19,261,129	0.028	529,739	\$18.92	\$10,020,393
Underwriting Documents [§ 1041.5]	5,105	Recordkeeping	On occasion	19,261,129	0.071	1,370,423	\$18.00	\$24,668,997
Prohibited payment transfer attempts – requirements and conditions for obtaining consumer’s	9,045	Recordkeeping	On occasion	14,478,524	0.009	134,715	\$25.54	\$3,440,461

<sup>2</sup> Hourly rate and average response Time estimates are subject to rounding error because they are derived from the annual responses, average response time, and annual burden hour costs estimates.

<sup>3</sup> Bureau of Labor Statistics, May 2016, Occupational Employment and Wage Estimates, <http://www.bls.gov/oes/current/oesrci.htm>. The hourly rate and annual burden hour costs incorporate BLS wages which are weighted averages composed of the average wages for a specific sector and corresponding occupation.

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<b>Information Collection Requirement</b>	<b>No. of Respondents</b>	<b>Type of IC</b>	<b>Frequency</b>	<b>Annual Responses</b>	<b>Average Response Time</b>	<b>Annual Burden Hours</b>	<b>Hourly Rate<sup>3</sup></b>	<b>Annual Burden Hour Costs</b>
authorization [§ 1041.8]								
Compliance Program and Record Retention [§ 1041.12]	9,887	Recordkeeping	On occasion	120,085,002	0	0	\$0	\$0
Registered Information system – initial assessment [§ 1041.11]	1	Reporting	1x	1	13.333	13	\$58.14	\$775
Registered Information system – biennial assessment [§ 1041.11]	1	Reporting	Biennial	1	4.000	4	\$62.64	\$251
<b>Totals:</b>	<b>9,900*</b>			<b>647,992,770</b>		<b>8,199,819</b>		<b>\$153,482,956</b>

\*Note: Unduplicated count. Total number of entities that would be required to comply with this regulation.

**A. Disclosures**

The rule requires different notices in certain situations. One notice is required to be given before consummation to borrowers taking out a covered short-term loan made under § 1041.6. A notice is required upon making the third loan in a sequence of loans made under § 1041.6. Other notices would relate to lenders’ attempts to obtain payments on covered loans by initiating withdrawals from borrowers’ deposit accounts or prepaid card accounts. One notice is required in advance of the lender’s first payment attempt, and another must be provided before attempting an unusual payment withdrawal. The other disclosure is required if a lender were no longer permitted to attempt to collect payment directly from a borrower’s account because prior consecutive payment attempts had failed due to non-sufficient funds.

Many of the costs to comply with these requirements would be common across the disclosures, and therefore those costs are discussed together in this section.

The Bureau believes that all lenders originating covered loans would incur some burden due to the disclosure requirements with the exception of lenders making vehicle title loans. The origination disclosure would apply only to covered short-term loans originated under § 1041.6, which would not include loans that take security interest in a consumer’s vehicle. The remaining disclosures are required when lenders obtain and use the ability to initiate withdrawals from consumers’ accounts for payment on a covered loan. Vehicle title lenders do not typically obtain and use the ability to initiate withdrawals from consumers’ accounts. Thus, when calculating the estimated burden of the notices on respondents, specifically for non-depositories, vehicle title lenders are excluded.

Under the rule, it would be the lender's responsibility to deliver each of the disclosures, although an affiliate or service provider may create and deliver the notices on the lender's behalf.

i. One-Time Burden

The Bureau believes that all lenders that would be affected by the new disclosure requirements have some disclosure system already in place to comply with existing Federal and State law disclosure requirements, such as those imposed under Regulation Z, 12 CFR part 1026 and Regulation E, 12 CFR part 1005. Lenders enter data directly into the disclosure system, or the system automatically collects data from the lenders' loan origination system. For this analysis, the Bureau assumes that most lenders would use the services of a vendor to print and/or deliver disclosures.<sup>4</sup> For disclosures provided via mail, email, or text message, the disclosure system forwards to a vendor, in electronic form, the information necessary to prepare the disclosures, and the vendor then prepares and delivers the disclosures. For disclosures provided in person, the disclosure system produces a disclosure, which the lender then provides to the borrower.

Respondents would incur a one-time burden to modify their existing disclosure systems to comply with new disclosure requirements. Respondents would need to modify their disclosure systems to compile necessary loan information to send to the vendors that would produce and deliver the disclosures relating to payments, as well as origination disclosures for loans originated online, and to produce the origination disclosures delivered in person. The Bureau believes that large depositories and non-depositories rely on in-house proprietary disclosure systems, and estimates the one-time programming cost for large institutions to modify these systems to be 1,000 labor burden hours per entity. The Bureau believes small depositories and non-depositories would incur only operations and materials costs to modify their disclosure systems, which are discussed in Section 13 below.

To determine the annual burden, the Bureau distributes the one-time burden over three years. For depositories, the annualized one-time burden to modify existing systems would be 274,410 burden hours, the equivalent of \$13,602,504 in burden hour costs. For non-depositories, the total annualized one-time burden to modify existing systems would be 38,333 burden hours, the equivalent of \$1,853,222 in burden hour costs.

Covered persons would also incur one-time costs associated with training employees on the disclosure requirements. The Bureau uses the number of employees per location<sup>5</sup> and the total number of locations<sup>6</sup> to calculate the total number of labor burden hours depositories and non-

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<sup>4</sup> Although some lenders may currently create and deliver disclosures in-house, given the increase in the volume of disclosures the rule would require, the Bureau believes most lenders would typically rely on vendors to print and deliver the disclosures.

<sup>5</sup> Bureau of Labor Statistics Occupational Employment Statistics using the specific NAICS code associated with each industry covered by the rule.

<sup>6</sup> Calculated from State licensee lists and industry estimates.

depositories would spend training employees on the new requirements for disclosures. Given the structure of depositories, the Bureau believes depositories would train half of their employees on average at each location rather than all employees. The Bureau estimates that it would require one labor burden hour to train each employee on the disclosure requirements. To determine the annual burden, the Bureau distributes the one-time burden over three years. For the 4,782 depositories, the Bureau estimates the annualized one-time burden from training employees on the disclosure requirements would be 87,170 labor burden hours, the equivalent of \$3,376,504 in burden hour costs. For the 4,263 non-depositories<sup>7</sup> the Bureau estimates the one-time burden from training employees on the disclosure requirements would be 41,828 labor burden hours, the equivalent of \$1,096,749 in burden hour costs.

## ii. Ongoing Burden

The Bureau estimates that covered persons would also need to have periodic staff training to comply with the disclosure requirements. The Bureau estimates that the 4,782 depositories and the 4,263 non-depositories would experience half an hour of additional training per employee per year as a result of the disclosure requirements. For depositories, the total ongoing annual burden on respondents for periodic staff training would be 130,755 labor burden hours, the equivalent of \$5,064,755 in burden hour costs. For non-depositories, the total ongoing annual burden on respondents for periodic staff training would be 62,743 labor burden hours, the equivalent of \$1,645,124 in burden hour costs.

## a. Origination Disclosures

There are three disclosures the Bureau anticipates will be provided by the lender at origination. These include: for covered short-term loans made under § 1041.6, the origination disclosures; for loans that represent a third loan in a sequence of covered short-term loans made under § 1041.6, an additional disclosure outlining the constraints on reborrowing (e.g that the borrower is not able to take an additional covered short-term loan or longer-term balloon-payment loan for at least 30 days after the closure of the third loan); and for any loans covered under § 1041.5 and certain other high-cost longer-term loans, an initial payment disclosure describing the timing and amount of the initial payment to be collected. The Bureau believes each of these would be typically delivered at the time of origination in the store for loans originated in a storefront and delivered through the website or an e-mail for loans originated online. The Bureau believes that 100 percent of large lenders and 80 percent of small lenders that provide disclosures in person use disclosure systems that automatically collect data from the lenders' loan origination system. For the remaining 20 percent, lenders would spend two minutes to enter payment information directly into the disclosure system. Additionally, in stores, the Bureau estimates that lenders would spend two minutes to deliver the origination disclosure to the borrower in the store. For

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<sup>7</sup> For reasons discussed, vehicle title lenders would not incur burdens as a result of the disclosure requirements in the rule and thus, are excluded from this calculation.

non-depositories, the total annual burden to provide the origination disclosures would be 2,419,634 labor burden hours, the equivalent of \$38,085,032 in burden hour costs.

b. Unusual Payment Disclosure

For all covered loan payments, other than for loans made under one of the conditional exemptions, where lenders obtain and use the ability to initiate withdrawals from consumers' accounts for loan payments, the rule would require payment disclosures, which vary depending on the nature of the payment request. If a respondent is attempting to withdraw an unusual payment from the borrower's account, such as a payment that is being withdrawn on a day different from what was originally scheduled or a payment for a higher amount than was originally provided in the payment schedule, the payment notice will provide the borrower with that information as well. Using information from industry and data provided to the Bureau by lenders, the Bureau has estimated the total number of loans that would be covered by the rule. Additionally, the Bureau has used data from several lenders to calculate the average number of payments for each of the products that would be covered by the rule. The Bureau believes that 4 percent of the payment requests would be subject to the unusual payment notice.<sup>8</sup>

The Bureau estimates there would be no labor burden associated with these payments disclosures.

c. Consumer Rights Disclosure

For the consumer rights disclosure, respondents would be required to provide a consumer rights notice to borrowers after a respondent has made two consecutive unsuccessful attempts to withdraw payment from a borrower's deposit account. This disclosure requirement would apply to all covered loans that meet the other criteria for the disclosure. Based on industry data and Bureau analysis, the Bureau uses estimates of the number of loan payments that are made and the share of loan payments that fail twice in a row to determine the number of payments that would be subject to the consumer rights notice. The Bureau estimates that about 4 percent of payment requests would cause the need for the consumer rights notice.

The Bureau estimates there would be no labor burden associated with the consumer rights disclosures.

**B. Obtaining and Furnishing of Information about Covered Loans**

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<sup>8</sup> Additionally, the Bureau believes the elimination of allowing lenders to automatically tack on late fees to regularly scheduled payments from the post-cap re-authorization requirements should have no effect on the lenders' unusual payment notice burdens. The unusual late payment notice requirement for fee-only debits applies regardless of whether the lender is debiting under an original authorization or a new.

In the rule, respondents would be required to obtain a consumer report from an information system registered for over 180 days pursuant to § 1041.11 to retrieve information about a loan applicant's borrowing history. This requirement would apply to all covered short-term loans and covered balloon-payment loans originated. Respondents would also be required to furnish certain information about consumers' borrowing behavior to each registered information system for all covered short-term loans and covered-balloon payment loans originated. While depositories would be required to furnish information about consumers' borrowing behavior, the Bureau believes it is a customary and usual business practice for depositories to furnish information to consumer reporting agencies.<sup>9</sup>

The total labor burden is reported separately in Exhibit 1 for the requirement to obtain a consumer report from a registered information system and the requirement to furnish information to each registered information system.<sup>10</sup> However, since the two information collections share related costs, they are discussed together in this section.

#### i. One-Time Burden

The Bureau estimates a share of the non-depository institutions would upgrade their systems to retrieve consumer reports regarding loan applicants' borrowing histories from a registered information system automatically and to furnish information concerning covered short-term loans and covered longer-term loans automatically. The Bureau believes that large non-depositories would rely on in-house proprietary systems, and estimates the one-time programming cost for large institutions to upgrade their systems to be 500 labor burden hours per entity. The one-time programming burden would encompass several of the requirements of the rule, and thus only one-third of the 500 labor burden hours are attributed to the obtaining and furnishing of information about covered short-term loans and covered balloon-payment loans.<sup>11</sup> The Bureau believes that all large non-depositories would upgrade their systems to interact with the registered information systems automatically. The Bureau believes small non-depositories would only experience operations and materials costs to upgrade their systems to interact with the registered information systems automatically, which are discussed in section 13 below. To determine the annual burden, the Bureau distributes the one-time burden over three years. For non-depositories, the annualized one-time burden to upgrade their systems to interact automatically with a registered information system would be 8,056 burden hours, the equivalent of \$389,437 in burden hour costs. Half of the 8,056 burden hours is attributed to the requirement to obtain a consumer report from a registered information system, and the remaining half is attributed to the requirement to furnish information to each registered information system.

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<sup>9</sup> See 5 CFR § 1320.3(b)(2).

<sup>10</sup> In this analysis, the Bureau provides estimates for only 1 registered information system.

<sup>11</sup> If more than one registered information system exists, the programming costs may increase. The Bureau estimates this increase to be approximately 250 additional hours of programming per registered information system.

As a result of the obtaining and furnishing requirements, non-depository respondents would incur one-time costs associated with training employees. The Bureau uses the same methodology introduced in the “Disclosures” section to determine the total number of employees that would need to be trained at non-depositories as a result of the obtaining and furnishing requirements. The Bureau estimates that it would take one hour to train an employee on the rule’s requirements regarding obtaining and furnishing of information about covered short-term loans and covered-balloon-payment loans. For the 5,105 non-depositories, the Bureau estimates the annualized one-time burden to train employees on the requirements pertaining to consumers’ borrowing history would be 59,295 labor burden hours, the equivalent of \$1,501,847 in burden hour costs. Half of the 59,295 burden hours is attributed to learning about the requirement to obtain a consumer report from a registered information system, and the remaining half is attributed to learning about the requirement to furnish specified information to each registered information collection.

ii. Ongoing Costs

Lenders would be required to obtain a consumer report containing borrowing history information for every covered short-term and covered longer-term balloon-payment loan that is originated. Lenders likely would not obtain these consumer reports containing borrowing history information for all loan applicants, but rather only the subset that has passed other basic screening during the lending process. The estimate of the ongoing costs to obtain consumer reports containing borrowing history information provided here is calculated based on the number of loans currently originated, which are, by definition, loans that have passed the other basic screens that lenders currently employ. This may still be an upper bound, as lenders might not carry out all of the steps required by the rule if, for example, some applications were to be rejected based on one of the steps required and therefore the lender would not complete subsequent steps. The Bureau has relied on industry estimates and data provided by lenders to estimate the total number of loans originated.

The Bureau estimates 100 percent of large lenders and 80 percent of small lenders, excluding lenders only making loans under one of the conditional exemptions, would implement systems that would automatically request the consumer report containing borrowing history information from an information system currently registered pursuant to § 1041.11 during the application process. For the remaining 20 percent of small respondents, the Bureau estimates that it would take nine minutes to obtain a consumer report containing borrowing history information. For non-depositories, the annual burden to obtain consumer reports would be 2,215,320 labor burden hours, the equivalent of \$34,863,102 in burden hour costs.

Respondents also would be required to furnish information about covered short-term loans and covered longer-term balloon-payment loans to each registered information system. Respondents would be required to furnish information about a loan no later than the date on which the loan is consummated or as close in time as feasible to the date the loan is consummated. While such a

loan is outstanding, lenders must furnish information about any update to information previously furnished pursuant to the rule within a reasonable period of time following the event prompting the update. And when such a loan ceases to be an outstanding loan, lenders must furnish the date as of which the loan ceased to be outstanding. Again, the Bureau estimates 100 percent of large respondents and 80 percent of small respondents, excluding lenders only making loans under one of the conditional exemptions, would implement systems that would automatically furnish this information to each registered information system. For the remaining 20 percent of small respondents, the Bureau estimates that it would take three minutes or less per originated loan to meet all furnishing requirements.<sup>12</sup> For non-depositories, the total annual burden to furnish loan information to each registered information system would be 738,440 labor burden hours, the equivalent of \$11,621,034 in burden hour costs.

In addition to the one-time costs for staff training, the Bureau estimates that covered persons would also need to have periodic staff training on the rule's requirements to verify and furnish information about covered short-term loans and covered balloon-payment loans. The Bureau estimates that the 5,105 non-depositories would experience half an hour of additional training per employee per year as a result of the requirements regarding borrowing history. For non-depositories, the total ongoing annual burden on respondents for periodic staff training would be 88,943 labor burden hours, the equivalent of \$2,252,770 in burden hour costs. Half of the 88,943 burden hours is attributed to learning about the requirement to obtain a consumer report from a registered information system, and the remaining half is attributed to learning about the requirement to furnish specified information to each registered information collection.

### **C. National Credit Report**

The rule requires respondents to retrieve information from a borrower's national credit report in order to identify any major financial obligations. This requirement applies to all covered short-term loans and covered balloon-payment loans, except loans made under one of the conditional exemptions. The Bureau believes depositories would originate loans using only the conditional exemptions. Therefore, depositories would not incur any additional burden to collect borrowers' national credit report information.

For any covered loan originated under § 1041.5, lenders would be required to retrieve national credit report information. However, some specialty consumer reporting agencies offer consumer reports that include the required national credit report information, and the Bureau believes that lenders would satisfy these requirements by obtaining such a report.

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<sup>12</sup> While the Bureau expects there will be no ongoing costs to furnish information to RISs other than routine maintenance of reporting systems, it is possible that there could be modest per loan furnishing costs (e.g. comparable to the costs of pulling from an RIS) depending on the business model(s) adopted by RISs. In this case, multiple RISs could increase the reporting costs slightly."

### i. One-Time Burden

The Bureau estimates a share of respondents would upgrade their systems to retrieve loan applicants' national credit report information from a specialty consumer reporting agency automatically during the application process. The Bureau believes that large non-depositories would rely on in-house proprietary systems, and estimates the one-time programming cost for large institutions to upgrade their systems to be 500 labor burden hours per entity. As mentioned in the "Obtaining and Furnishing of Information about Covered Loans" section, this programming burden encompasses several information collections, and thus only one-third of the 500 programming hours is attributed to the national credit report requirement. The Bureau believes that all large non-depositories would upgrade their systems to interact with the specialty credit reporting agency automatically. The Bureau believes small non-depositories would only experience operations and materials costs to upgrade their systems to interact with the specialty consumer reporting agencies automatically, which is discussed in section 13 below. To determine the annual burden, the Bureau distributes the one-time burden over three years. For non-depositories, the annualized one-time burden to upgrade their systems to interact automatically would be 8,056 burden hours, the equivalent of \$389,437 in burden hour costs.

As a result of the national credit report requirements, respondents would incur one-time costs associated with training employees. As described when calculating the training costs for the disclosure requirements and the requirements concerning borrowing history, the Bureau uses the number of employees at each location that would need to be trained and the total number of locations to calculate the total number of labor burden hours non-depositories would spend training employees on the rule's national credit report requirements. The Bureau estimates that it would take one hour to train an employee on the national credit report requirements. For the 5,105 non-depositories, the Bureau estimates the annualized one-time cost of training employees on the national credit report requirements would be 59,295 labor burden hours, the equivalent of \$1,501,847.

### ii. Ongoing Costs

The ongoing cost to obtain information from a national credit report is calculated based on the current number of loans originated. As described in the "Obtaining and Furnishing of Information about Covered Loans" section, the Bureau has relied on industry estimates and data provided by lenders on loan to estimate total originations. Lenders would be required to obtain the information from the consumer report for every loan that is originated, excluding the loans originated using one of the conditional exemptions for covered loans. The Bureau uses the total number of loans originated to calculate the costs respondents would incur to retrieve the applicant's consumer report information.

The Bureau estimates 100 percent of large respondents and 80 percent of small respondents would implement systems that would automatically request this information from the specialty

consumer reporting agency during the application process. For the remaining 20 percent of small respondents, the Bureau estimates that it would take nine minutes to obtain a consumer report. However, under §1041.5, a lender would not need to pull a new national credit report if, during the preceding 90 days, the lender or its affiliate has obtained a national credit report for the consumer and the consumer has not taken out a sequence of three loans under § 1041.5 and triggered the 30-day cooling-off period. Due to this provision, the Bureau believes its burden hours and costs estimates may be an upper bound. For non-depositaries, to obtain applicants' national credit report information would impose an annual burden of 373,445 labor burden hours, the equivalent of \$5,876,339 in burden hour costs.

In addition to one-time costs for the training of staff, the Bureau estimates that covered persons would also need to have periodic staff training on the rule's consumer report requirements. The Bureau estimates that the 5,105 non-depositaries would experience half an hour of additional training per employee per year on the consumer report requirements. For non-depositaries, the total ongoing annual burden for periodic staff training would be 88,943 labor burden hours, the equivalent of \$2,252,770 in burden hour costs.

#### **D. Underwriting Documents**

Section 1041.5 of the rule includes requirements to collect certain documents for respondents that originate covered short-term loans and covered balloon-payment loans other than those made under one of the conditional exemptions.

##### **i. One-Time Burden**

The Bureau estimates a share of respondents would upgrade their systems to retrieve the various underwriting documents from specialty consumer reporting agencies automatically. The Bureau believes that large non-depositaries would rely on in-house proprietary systems, and estimates the one-time programming cost for large institutions to upgrade their systems to be 500 labor burden hours per entity. As mentioned in the "Obtaining and Furnishing of Information about Covered Loans" and the "National Credit Report" sections, this programming burden encompasses several information collections, and thus only one-third of the 500 programming hours is attributed to the underwriting documents information collection. The Bureau believes that all large depositaries, to the extent that such institutions are making loans under § 1041.5 would upgrade their systems to interact with the specialty consumer reporting agency automatically. The Bureau believes small depositaries and non-depositaries would only experience operations and materials costs to upgrade their systems to interact with the specialty consumer reporting agencies automatically, which are discussed in Section 13 below. To determine the annual burden, the Bureau distributes the one-time burden over three years. For non-depositaries, the annualized one-time burden to upgrade their systems to interact automatically would be 8,056 burden hours, the equivalent of \$389,437 in burden hour costs.

Online lenders would experience an additional one-time cost to update their online loan application. The new underwriting requirements would require online lenders to obtain new information from borrowers during the application process. The Bureau estimates this would require eight hours of programming time per entity. For the 125 online lenders, the Bureau estimates the one-time burden to update their websites would be 1,000 labor burden hours. Annualized, the one-time cost for online lenders to update their websites would be 333 hours or the equivalent of \$16,115 in burden hour costs.

Respondents would incur one-time costs associated with training employees as a result of the underwriting requirements. As described when calculating the one-time training costs in the previous three sections, the Bureau uses the number of employees per location that would need to be trained and the total number of locations to calculate the total number of labor burden hours depositories and non-depositories would spend training employees on the underwriting requirements. The Bureau estimates that it would take two labor burden hours to train each employee on the underwriting requirements. For the 5,105 non-depositories, the Bureau estimates the annualized one-time cost of training employees on the underwriting requirements would be 118,590 labor burden hours, the equivalent of \$3,003,694 in burden hour costs.

ii. Ongoing costs

The rule also would require covered persons to obtain documents that detail several of the applicant's financial metrics in order to underwrite and originate a loan. These requirements apply to all covered short-term loans and covered longer-term balloon payment loans except those originated using one of the conditional exemptions. The Bureau estimates this requirement would affect 33 million loans per year. The Bureau believes that the burden hour estimates may be an upper bound.

First, respondents would be required to obtain documentation detailing the applicant's income if verification evidence, such as past pay stubs or bank statements, is reasonably available. Otherwise, respondents may reasonably rely on stated income. The Bureau believes that it is the customary and usual business practice of most lenders making covered short-term and covered balloon-payment loans to obtain this documentation. Many vehicle title lenders, however, do not currently obtain this documentation. Based on industry estimates and data provided to the Bureau, the Bureau estimates there are nearly 3 million vehicle title loans per year. The Bureau estimates that it would take four minutes for a respondent to identify an applicant's income. The total annual burden to identify income for non-depositories would be 173,060 labor burden hours, the equivalent of \$2,722,234 in burden hour costs for non-depositories. However, the Bureau believes this estimate may be an upper bound because of the provision that allows a reliance on reasonably stated income when income verification evidence is not reasonably available.

Respondents would also be required to obtain documentation of housing expenses or rely on

reasonable stated applicants' rental expenses.

For borrowers with monthly mortgage payments, respondents would be able to determine the amount from the national credit report. The lender may determine the housing expenses through the national credit report or through reasonable stated rental expenses. The Bureau estimates 100 percent of large respondents and 80 percent of small respondents would implement systems that would assist in determining an ability to repay. The Bureau estimates it would require one minute per application for the lender to document the housing expenses. For the remaining 20 percent of small respondents, the Bureau estimates that it would take six minutes per application for the lender to document the housing expenses. For non-depositories, the total annual burden to document housing expenses from applicants would be 255,363 labor burden hours, the equivalent of \$4,017,960 in burden hour costs. However, the Bureau believes this estimate may be an upper bound for a number of reasons, such as the provision that allows a reliance on reasonably stated rental expenses and already having documents readily available.

Alternatively, lenders may determine an amount under a reliable method of estimating a consumer's housing expense based on the housing expenses of consumers with households in the locality of the consumer. The Bureau believes respondents would be able to obtain this information from a specialty consumer reporting agency at the same time that the respondent requests the consumer report information. While the Bureau believes few entities would follow up with this procedure due to reasons such as the allowance of relying on reasonable stated rental expenses, the Bureau believes the following estimates in this paragraph are conservative. The Bureau estimates that 80 percent of the storefront lenders' applications and all of the online lenders' applications would obtain the additional housing information from a specialty consumer reporting agency. The Bureau estimates 100 percent of large respondents and 80 percent of small respondents would implement systems that would automatically request this information from a specialty consumer reporting agency during the application process. For the remaining 20 percent of small respondents, the Bureau estimates there would be minimal additional burden to request the applicant's housing expenses from a specialty consumer reporting agency while requesting the consumer report information; this burden is covered in the "National Credit Report" section.

In addition, the rule requires respondents making loans subject to the ability-to-repay requirements to ask applicants to provide information regarding the applicant's major financial obligations. The Bureau estimates 100 percent of large respondents and 80 percent of small respondents would implement systems that would assist in determining an ability to repay. The Bureau estimates this would take three minutes on average per application. For the remaining 20 percent of small respondents, the Bureau estimates this would take nine minutes on average per application. For non-depositories, the total annual burden to assess major financial obligations would be 637,469 labor burden hours, the equivalent of \$10,030,132 in burden hour costs. However, the Bureau believes this estimate may be an upper bound for reasons such as already having documents readily available (e.g. a).

Respondents would also experience ongoing costs to train employees. The Bureau estimates that the 5,105 non-depositories would experience one hour of additional training per employee per year as a result of the underwriting requirements. For non-depositories, the total annual ongoing cost to respondents for periodic staff training would be 177,885 labor burden hours, the equivalent of \$4,505,540 in burden hour costs for non-depositories.

### **E. Obtaining a New and Specific Authorization**

After a respondent has made two consecutive unsuccessful attempts to withdraw payment for a covered loan from a borrower's account, the rule would prohibit lenders from making additional payment attempts to withdraw funds from the borrower's account unless a new and specific authorization is obtained from the borrower to do so. The Bureau believes that most respondents would send the request to obtain a new and specific authorization while sending the consumer rights disclosure as described in the "Disclosures" section.

As discussed in the "Disclosures" section, vehicle title lenders do not typically obtain and use the ability to initiate payment withdrawals from consumers' accounts, and thus, such lenders are excluded when calculating the burden for obtaining a new and specific authorization to withdraw payment from a borrower's deposit account.

#### **i. One-Time Burden**

The Bureau estimates that 25 percent of small storefront lenders and all the remaining respondents would upgrade their websites to allow for borrowers to provide authorization online. The Bureau estimates that it would take the respondents 40 burden hours to perform these upgrades. For depositories, the annualized one-time burden to program their systems to obtain authorization through their websites would be 24,173 burden hours, the equivalent of \$1,198,259 in burden hour costs. For non-depositories, the annualized one-time to program their systems to obtain authorization through their websites would be 15,360 labor burden hours, the equivalent of \$742,594 in burden hour costs.

#### **ii. Ongoing Costs**

When borrowers do not provide a new and specific authorization on the lender's website, there would be labor burden to the lenders to obtain the consumer's authorization. When consumers reauthorize by clicking a link, the marginal cost would be zero. When consumers reauthorize by responding to a lender's new and specific authorization request with another email, phone call, or store visit, the cost to lenders to process the reauthorization would be two minutes. The Bureau estimates that storefront lenders would engage with consumers for 80 percent of the authorization requests. For lenders operating online, the Bureau estimates that lenders would engage with consumers for 50 percent of the authorization requests. For depositories, the total

annual burden to obtain a new and specific authorization would be 1,105 labor burden hours, the equivalent of \$18,978 in burden hour costs. For non-depositories, total annual burden to obtain authorization through their websites would be 94,077 labor burden hours, the equivalent of \$1,480,631 in burden hour costs.

## **F. Compliance Program and Record Retention**

The rule would impose new compliance program and record retention requirements on respondents. The rule would require covered persons to maintain written policies and procedures reasonably designed to ensure compliance with the rule. Covered persons would also need to retain loan agreements and documentation obtained for covered short-term loans and covered longer-term loans. Covered persons would also have to retain electronically calculations used to determine the applicant's ability to repay and determine whether the applicant qualifies for an exception for such covered loans. Respondents would be required to keep electronic records regarding loan type and terms. Respondents would also be required to keep electronic records of payment history and loan performance for all covered loans. Respondents would be required to keep these records for three years after the loan ceases to be an outstanding loan. The Bureau believes it is customary and usual for lenders to maintain loan agreements and information collected from the consumer during the application process. Given lenders' existing business practices and the requirements to electronically furnish information to a registered information system, the Bureau believes that maintaining any additional information required by the rule would not impose additional costs on respondents that have not already been calculated.

## **G. Registered Information System**

Section § 1041.11 identifies criteria that an entity must meet to become a registered information system. When applying to be a registered information system, the entity must provide the Bureau with information and documentation sufficient for the Bureau to determine that the criteria are met. Additionally, once registered, the information system would be required to provide a biennial independent assessment of its information security program.

In Exhibit 1, the labor burden is reported separately for the application process to be a registered information system and the biennial assessment. However, since the two information collections are related, they are discussed together in this section.

### **i. One-Time Burden**

The Bureau estimates that it would take approximately 40 hours to collect and document the required information to apply to be a registered information system. As this designation does not currently exist and thus, no entities are currently considered to be a registered information system, the Bureau estimates the burden for one representative respondent. The total annualized cost to apply to become a registered information system would be 13 burden hours, the

equivalent of \$775 in burden hour costs.

ii. Ongoing costs

The Bureau estimates the ongoing burden to the registered information system to prepare and report the biennial assessment of their information security program to be 8 hours. Annualized, the burden for the representative one registered information system would be 4 labor burden hours, the equivalent of \$251 in burden hour costs.

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

The Bureau estimates the material cost burden to respondents as a result of each of the information collections.

Using the Bureau’s cost burden estimation methodology, the total estimated cost burden annually for the approximately 9,900 institutions subject to the rule, including Bureau respondents, would be approximately \$100,844,367. For the Bureau institutions subject to this rule, the total estimated cost burden annually would be approximately \$49,656,527. The Bureau assumes that the one-time costs to comply with requirements, such as software upgrades, includes costs to hire outside firms to assist with the implementation of the requirements. While the Bureau believes these costs to be marginal, these one-time cost estimates could potentially underestimate the true cost for some lenders.

**Exhibit 2: Cost Burden Summary** <sup>13</sup>

Description of Costs (O&M)	Per Unit Costs	Quantity	Total Cost
<b>Information Collection Requirement</b>			
Disclosures [§§ 1041.6(e) & 1041.9]	\$0.05	235,903,844	\$11,238,913
Obtaining consumer report from a registered information system [§§ 1041.5 & 1041.6]	\$0.50	118,918,138	\$59,736,415
Information furnishing requirements [§ 1041.10]	\$0.00	120,085,002	\$0
National Credit Report [§ 1041.5]	\$1.47	19,261,129	\$28,235,122
Underwriting Documents [§ 1041.5]	\$0.07	19,261,129	\$1,407,404
Prohibited payment transfer attempts – requirements and conditions for obtaining consumer’s authorization [§ 1041.8]	\$0.02	14,478,524	\$226,513
Compliance Program and Record Retention [§ 1041.12]	\$0.00	120,085,002	\$0
Registered Information system – initial	\$0.00	1	\$0

<sup>13</sup> Per unit cost estimates are subject to rounding error because they are derived from the quantity and total cost estimates.

assessment [§ 1041.11]			
Registered Information system – biennial assessment [§ 1041.11]	\$0.00	1	\$0
<b>Totals:</b>		<b>647,992,770</b>	<b>\$100,844,367</b>

**A. Disclosures**

i. One-Time Burden

The Bureau believes all small depositories and non-depositories rely on licensed commercial disclosure system software. Depending on the nature of the software licensing agreement, the Bureau estimates that the cost to upgrade this software would be \$10,000 for lenders licensing the software at the entity-level and \$100 per seat for lenders licensing the software using a seat-license contract. For respondents using seat licenses software, the Bureau estimates that each location for small depositories and non-depositories has on average three seats licensed. Given the price differential between the entity-level licenses and the seat-license contracts, the Bureau believes that only small lenders with a significant number of stores would rely on the entity-level licenses. The Bureau estimates that 5 percent of the small respondents would rely on entity-level licenses and the remaining 95 percent would rely on seat-license contracts.

In addition to the modifications to the disclosure systems, the Bureau estimates that small non-depository storefront lenders would pay \$200 to a vendor for a standard electronic origination disclosure form template.

To determine the annual cost burden, the Bureau distributes the one-time cost over three years. For depositories, the annualized one-time burden to modify existing systems would be \$1,950,963 in material costs. For non-depositories, the annualized one-time burden to modify existing systems would be \$1,863,842 in material costs for non-depositories.

ii. Ongoing Costs

For disclosures delivered through the mail, the Bureau estimates that vendors would charge two different rates, one for high volume mailings and another for low volume mailings. The Bureau applies the high volume cost to large respondents and the low volume cost to small respondents. For the high volume mailings, the Bureau believes vendors would charge \$0.40 per disclosure; however, the Bureau uses \$0.53 in the estimates. For the low volume mailings, the Bureau estimates vendors would charge \$1.00 per disclosure. For disclosures delivered through e-mail, the Bureau estimates vendors would charge \$0.01 to create and deliver each e-mail such that it complies with the requirements of the rule. For disclosures delivered through text message, the Bureau believes most vendors would charge \$0.01 to create and deliver each text message such that it complies with the requirements of the rule; however, the Bureau uses \$0.08 in the estimates.

Using these standard estimates, the Bureau estimates the ongoing costs to create and deliver each of three disclosures. As previously mentioned, not all disclosures would apply to all loans or loan payments.

a. Origination Disclosure

The origination disclosure would only be required for loans made under § 1041.6. Using total origination volume for payday loans, the Bureau estimates that there are approximately 67 million covered short-term covered loans that are originated in a storefront location and 40 million covered short-term covered loans originated online. For non-depositories, the Bureau estimates that 93.0 percent of covered short-term loans per year would be originated using the principal step-down approach. The remaining 7.0 percent of covered loans would be made under the ability-to-repay requirements.

The Bureau believes three types of disclosures would be delivered at the time of origination, in the store for loans originated in a storefront and through the website or an e-mail for loans originated online. These include: for covered short-term loans made under § 1041.6, the origination disclosures; for loans that represent a third loan in a sequence of covered short-term loans made under § 1041.6, an additional disclosure outlining the constraints on reborrowing (e.g. that the borrower is not able to take an additional covered short-term loan or longer-term balloon-payment loan for at least 30 days after the closure of the third loan); and for any loans covered under § 1041.5 and certain other high-cost longer-term loans, an initial payment disclosure describing the timing and amount of the initial payment to be collected. In stores, the Bureau estimates the cost of printing these disclosures to deliver the disclosure to the borrower in the store would be \$0.10 per loan. For similar loans originated online, the Bureau estimates the lender would pay the vendor \$0.01 to produce and deliver each disclosure. For non-depositories, the total annual burden to provide the origination disclosures would be \$6,639,262 in materials cost.

b. Unusual Payment Disclosure

The Bureau believes that 4 percent of payment requests would be subject to the unusual payment notice.

For both covered short-term and longer-term loans originated in a storefront, the Bureau estimates that 10 percent of the payment notices would be delivered by mail, 80 percent of the payment notices will be delivered by e-mail, and 10 percent of the payment notices would be delivered by text message. For covered loans originated online, the Bureau estimates that 80 percent of the payment notices would be delivered by e-mail, and 20 percent of the payment notices would be delivered by text message.

Similar to the section above, for each unusual payment notice, the Bureau estimates lenders would pay the vendor \$0.53 or \$1.00, depending on volume, for disclosures delivered by mail, \$0.01 for disclosures delivered by e-mail, and \$0.08 for disclosures delivered by text message. The total annual burden that non-depositories would incur for the payment notices would be \$670,589 in materials cost.

c. Consumer Rights Disclosure

The Bureau estimates that about 4 percent of payment requests would cause the need for the consumer rights notice. For loans originated at a storefront location, the Bureau estimates 10 percent of notices would be delivered by mail, 80 percent of notices would be delivered by e-mail, and 10 percent of notices would be delivered by text message. For loans originated online, the Bureau estimates that 20 percent of notices would be delivered by e-mail, and 80 percent of notices would be delivered by text message. The total annual burden imposed on depositories to provide the consumer rights disclosure would be \$17,620 in materials cost. The total annual burden imposed on non-depositories to provide the consumer rights disclosure would be \$259,771 in materials cost.

**B. Obtaining and Furnishing Information about Covered Loans**

i. One-time Burden

The Bureau estimates that 80 percent of small depositories, excluding those only making loans under the principal step-down approach, would upgrade their systems to obtain consumer reports reflecting loan applicants' borrowing histories from a registered information system automatically and to furnish certain information about covered short-term loans and covered longer-term loans to each registered information system automatically. This burden has been calculated in Section 12 for large depositories. The Bureau believes small non-depositories would rely on licensed software. Depending on the nature of the software licensing agreement, the Bureau estimates that the cost to upgrade this software would be \$10,000 for lenders licensing the software at the entity-level and \$100 per seat for lenders licensing the software using a seat-license contract. For respondents using seat-licensed software, the Bureau estimates that each location for small non-depositories has on average three seats licensed. Given the price differential between the entity-level licenses and the seat-license contracts, the Bureau believes that only small lenders with a significant number of stores would rely on the entity-level licenses. The Bureau estimates that 5 percent of the small respondents would rely on entity-level licenses and the remaining 95 percent would rely on seat-license contracts. Only one-third of the total estimated cost to implement these systems are attributed to the obtaining and furnishing of information about covered loans provisions of the rule, as the Bureau believes these system upgrades would address the provision regarding national credit reports and underwriting documents, as well. To determine the annual cost burden, the Bureau distributes the one-time cost over three years. The annualized one-time burden to upgrade systems would be \$554,692 in

material costs for non-depositories. Half of the \$554,692 is attributed to the requirement to obtain a consumer report from a registered information system, and the remaining half is attributed to the requirement to furnish information to each registered information system.

ii. Ongoing Costs

Based on estimates from furnishers, obtaining a consumer report documenting the applicant's borrowing history would cost \$0.50 per application. For the 119 million loans non-depositories make that would require lenders to retrieve consumers' borrowing history, the annual burden to obtain applicants' borrowing history would be \$59,459,069 for the material cost of the reports.

The Bureau does not anticipate that there would be any material cost to furnish information to each registered information system.

**C. National Credit Report**

i. One-time Burden

This burden has been calculated in Section 12 for large depositories. The Bureau estimates that 80 percent of small depositories would upgrade their systems to retrieve loan applicants' national credit report automatically. Following the methodology described in the "Obtaining and Furnishing of Information about Covered Loans" section, the Bureau estimates the annualized one-time burden for respondents to upgrade their systems to automatically retrieve loan applicants' national credit report would be \$554,692 in material costs for non-depositories.

ii. Ongoing Costs

The Bureau estimates that it would cost \$0.50 per application for large lenders and \$1.95 per application for small lenders to obtain a national credit report from a specialty consumer reporting agency that has the consumer report information. For the 33 million loans non-depositories make that would be originated using the ability-to-repay requirements, to obtain the national credit report information would impose an annual burden of \$27,680,429 in materials cost.

**D. Underwriting Documents**

i. One-time Burden

This burden has been calculated in Section 12 for large depositories. The Bureau estimates that 80 percent of small depositories would upgrade their systems to retrieve the various underwriting documents from specialty consumer reporting agencies automatically. Following the methodology described in the "Obtaining and Furnishing Information about Covered Loans"

section, the Bureau estimates the annualized one-time burden for respondents to upgrade their systems to automatically retrieve underwriting documents would be \$554,692 in material costs for non-depositories.

ii. Ongoing Costs

To request the estimated housing expense information from the specialty consumer reporting agency would be \$0.05 per application in addition to the cost of the consumer report information. Although, the Bureau believes few entities would follow up with this procedure due to reasons such as the allowance of relying on reasonable stated rental expenses, for non-depositories, the Bureau provides a conservative estimate of the total annual burden to assess applicants' housing expenses would be \$852,712 in materials cost.

**E. Obtaining a New and Specific Authorization**

Based on industry data and Bureau analysis, the Bureau uses estimates of the number of loan payments that are made and the share of loan payments that fail twice in a row to determine the number of times a respondent would need to obtain a new and specific authorization to withdraw payment from a borrower's deposit account. The Bureau estimates that about 4 percent of payment requests would result in the need for a respondent to obtain a new and specific authorization. For loans originated at a storefront location, the Bureau estimates 10 percent of requests to obtain authorization would be delivered by mail and 90 percent of requests would be delivered by e-mail. For loans originated online, the Bureau estimates that 100 percent of requests would be delivered by e-mail. For each request delivered by mail, the Bureau estimates it would cost the lenders \$0.10 to include an additional page requesting the borrower to provide a new and specific authorization while mailing the consumer rights notice. For the requests delivered by e-mail, the Bureau believes lenders would send a separate e-mail from the consumer rights notice requesting a new and specific authorization. For each e-mail, it would cost the lender \$0.01. The total annual burden imposed on depositories to request a new and specific authorization would be \$3,397 in materials cost. The total annual burden imposed on non-depositories to request a new and specific authorization would be \$223,116 in materials cost.

**F. Compliance Program and Record Retention**

The Bureau estimates there would be no new cost burden associated with the compliance program and record retention requirements of the rule.

**G. Registered Information System**

The Bureau estimates there would be no new cost burden associated with the registered information system requirements of the rule.

**14. Estimated Cost to the Federal Government**

There are no additional costs to the Federal Government.

**15. Program Changes or Adjustments**

Since this is a new information collection request associated with a new rulemaking, all the burden considered in this request is considered to be a program change.

**16. Plans for Tabulation, Statistical Analysis, and Publication**

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

**17. Display of Expiration Date**

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](http://www.reginfo.gov), as well as in the Code of Federal Regulations. There are no required forms or other documents upon which display of the control number and expiration date would be appropriate.

**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.

**PART B: COLLECTIONS OF INFORMATION USING STATISTICAL METHODS**

Not applicable. The information collections contained in this rule do not involve the use of statistical methods.

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