

**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: 3170-0071)

OMB TERMS OF CLEARANCE: This information collection request (ICR) was most recently submitted to the Office of Management and Budget (OMB) when the proposed rule for RIN 3170-AA80 was published in the *Federal Register* on February 14, 2019. OMB concluded its review of that request on October 29, 2019 providing the following Terms of Clearance:

OMB files this comment in accordance with 5 CFR 1320.11(c). This OMB action is not an approval to conduct or sponsor an information collection under the Paperwork Reduction Act of 1995. This action has no effect on any current approvals. If OMB has assigned this ICR a new OMB Control Number, the OMB Control Number will not appear in the active inventory. For future submissions of this information collection, reference the OMB Control Number provided. Resubmit when proposed rule is finalized.

The submission of this ICR to OMB at the final rule stage for RIN 3170-AA80 satisfies this OMB Terms of Clearance.

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.

NOTE-TO-REVIEWERS

The collections of information related to the 2017 Final Rule (82 FR 54472, Nov. 17, 2017) were first submitted to OMB in accordance with the Paperwork Reduction Act of 1995 (“PRA”) and

assigned OMB Control Number 3170-0065 for tracking purposes. The collection of information is not yet active, however, as OMB has not yet approved (or disapproved) the 2017 Final Rule information collection request. (The Bureau submitted a new ICR in 2019 when it published a proposed rule, as noted above.) The Bureau is issuing a new rule (“2020 Final Rule”) that revokes a portion of the regulations promulgated in 2017. There are no new information collections associated with the 2020 Final Rule. Rather, the information collections for which the Bureau is continuing to seek approval are associated with the remaining, now-codified portions of the 2017 Final Rule, and this supporting statement describes and analyzes only these remaining information collections. Thus, the Bureau is seeking OMB approval for the information collection requirements remaining in 12 CFR part 1041, Subpart C, contained in §§ 1041.8, 1041.9, and 1041.12.¹ As such, the Bureau submitted this new information collection request seeking approval and a new OMB control number pursuant to section 3507(d) of the PRA.

JUSTIFICATION

1. Circumstances Necessitating the Data Collection

In 2017, the Bureau issued a final 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 rule contains four subparts: A (General); B (Underwriting); C (Payments); and D (Information furnishing, record-keeping, anti-evasion, and severability). The 2020 Final Rule revokes all of subpart B and provisions of subpart D that relate to mandatory underwriting.

Thus, the collections of information for which the Bureau seeks approval are set forth entirely in the portions of 12 CFR part 1041 that will remain following publication of the 2020 Final Rule. These provisions include requirements to ensure that certain features of the covered loans are fully, accurately, and effectively disclosed to consumers and mandates certain recordkeeping requirements. The following statement describes the impact the provisions of 12 CFR part 1041, following revocation of subpart B, are expected to have with respect to the burdens and costs relevant to the reporting requirements described in the Paperwork Reduction Act.

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

¹ The 2020 final rule revokes the mandatory underwriting requirements of 12 CFR part 1041, thereby removing the information collection requirements previously contained in §§ 1041.5, 1041.6, 1041.10, and 1041.11. On July 7, 2020, the Bureau issued a notice ratifying its 2017 rulemaking promulgating the payment provisions of 12 CFR part 1041, including §§ 1041.2, 1041.3, 1041.7–1041.9, 1041.12(a), (b) introductory text, (b)(4)–(5), 1041.13, https://files.consumerfinance.gov/f/documents/cfpb_ratification_payment-provisions_2020-07.pdf.

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 statutory and regulatory 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 is “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 regulations in Subpart C pertaining to payment practices by lenders and consisting of §§ 1041.7 to 1041.9 (“Payment Provisions”), apply to all three categories. Sections 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) upcoming payment notices (including unusual payment notices), and consumer rights notices; and (2) retention of loan agreement obtained when making a covered short-term loan, covered longer-term balloon payment loan, or covered longer-term installment loan, and payment practices.

Under § 1041.7, it is an unfair and abusive practice for a lender to make attempts to withdraw payment from consumers’ accounts in connection with a covered loan after the lender’s second

consecutive attempts to withdraw payments from the accounts from which the prior attempts were made have failed due to a lack of sufficient funds, unless the lender obtains the consumers' new and specific authorization to make further withdrawals from the accounts. 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. This requirement ensures that lenders obtain a new and specific authorization before withdrawing payments on a covered loan from the consumer's deposit account after two consecutive failed payment transfer attempts.

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. Under § 1041.9, lenders making covered loans would 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. Under § 1041.9, lenders also would 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 § 1041.12 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 Bureau has incorporated information technology and other automated means of compliance into the rule 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. 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 and recordkeeping requirements would be imposed on lenders making covered short-term loans, longer-term balloon-payment loans, and covered high-cost installment loans. 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.

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 (2016 NPRM) in the *Federal Register*, 81 FR 47863, inviting the public to comment on the information collection requirements associated with the Payment Provisions contained in the 2017 Final Rule and preserved by the 2020 Final Rule. The Bureau received over 1.4 million comments,² which are summarized along with the Bureau's response to those comments in the preamble to the 2017 Final Rule (82 FR 54472, Nov. 17, 2017).

Also, in accordance with 5 CFR § 1320.11, the Bureau published a notice of proposed rulemaking in the *Federal Register* inviting the public to comment on the information collection

² Comments can be viewed at <https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&dct=PS&D=CFPB-2016-0025>.

requirements contained in the proposed rule. The Bureau received approximately 197,000 comments which can be viewed at <https://www.regulations.gov/docketBrowser?rpp=25&so=DESC&sb=commentDueDate&po=0&D=CFPB-2019-0006>. These comments are also summarized along with the Bureau's response to those comments in the preamble to the 2020 Notice of Final Rulemaking.

The Bureau has been studying and conducting market monitoring activities of the markets for liquidity loans for more than eight 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 2016 NPRM. 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 eight years the Bureau has engaged in extensive outreach with a variety of stakeholders in 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 also received related public comments in response to other Bureau initiatives, such as the Requests for Information that the Bureau issued in 2018.³ See Part III of the Preamble to the 2017 Final Rule and Part III of the Preamble to the 2020 Final Rule for a full description of the Bureau's efforts to consult with parties outside of the Bureau.

In response to the 2016 NPRM, the Bureau received numerous comments addressing the estimates of burden hours and costs subject to the proposed Payment Provisions that were finalized at 12 CFR part 1041, and the Bureau provided several updates to burden hour and cost estimates in the 2017 Final Rule. Some burden hour and cost assumptions were left unchanged.

The Bureau also received some industry comments in response to the 2019 NPRM asking the agency to reconsider the Payment Provisions, but they did not provide new data and did not result in changes to the burden hour and cost estimates of the Payment Provisions in Subpart C of 12 CFR part 1041.

Some comments submitted in response to the 2019 NPRM noted a lack of clarity with respect to the breadth of the Payment Provisions, including definitional questions as to whether the Bureau

³ The 2018 Requests for Information are available at <https://www.consumerfinance.gov/policy-compliance/notice-opportunities-comment/archive-closed/call-for-evidence/>.

intends the Payment Provisions to apply to bridge loans and loans secured by an investment security that has interest-only payments with a balloon final payment. A number of commenters stated that the burden would be substantial and would be unwarranted because consumers would receive little, if any, benefit; that the Payment Provisions would likely reduce options and flexibility for consumers; and that they may reduce credit availability to consumers deemed to be a credit risk, as lenders' inability to make more than two attempts to withdraw payment from consumers' accounts unless they obtain consumers' new and specific authorization for further attempts will increase the risk associated with providing credit and increase debt collection activity. Commenters however, did not provide any new cost estimates to conform with these provisions.

Some commenters stated that the Payment Provisions are redundant because NACHA rules already provide sufficient protection to consumers by setting return thresholds that allow it to more closely scrutinize lenders from initiating repeated debits that would harm consumers; they also argued that the Payment Provisions should be made consistent with NACHA rules rather than create new requirements. Commenters also noted that payments are already heavily regulated by federal law. Similar comments were raised in response to the 2016 NPRM and the Bureau noted in the 2017 Final Rule that NACHA's guidelines do not impact payment transfers outside the ACH system and lenders may be continuing problematic payment practices through non-ACH channels. Further, within the ACH channel violations of the NACHA Rules may not be enforced by NACHA to the same extent as would be violations of Federal law by the CFPB and other Federal agencies. Moreover, as noted in the 2017 Final Rule and reflected in comments received in response to the 2019 NPRM, commenters did not state that the practice of multiple representations has ceased entirely or that the likelihood that a payment attempt would succeed has been impacted by NACHA rules or intervening enforcement actions.

Some commenters argued that the Payment Provisions are overly broad. The Payment Provisions prevent lenders from representing a borrower's check or ACH debit more than two times, thereby preventing more than two NSF fees. As written, some commenters argued, the Payment Provisions encompass debit cards that do not present an NSF risk and should not be covered. In response to comments of this nature on the Payment Provisions of the 2016 NPRM, the Bureau noted in the 2017 Final Rule that lenders may impose fees for declined withdrawal attempts on debit cards and certain prepaid cards even if the account-holding institution may not charge a fee. The 2017 Final Rule also noted that after two failed attempts debit card transactions may trigger overdraft fees and that excluding debit cards would not materially reduce lenders' compliance costs because lenders would need to develop processes and procedures for covered payment types regardless. On July 7, 2020, the Bureau denied a petition requesting that the Bureau amend the Payment Provisions to remove debit cards from the scope of application of the Payment Provisions. Commenters also stated that the Payment Provisions are overly broad because they are not limited to small-dollar loans or to high-cost loans, and because they cover installment loans, where, commenters asserted, there is less evidence of consumer harm.

9. Payments or Gifts to Respondents

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

10. Assurances of Confidentiality

The Bureau does not collect any information under this rule. 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

There is no information of a sensitive nature being requested by the bureau under this information collection.

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. 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 3,189,587 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.

Exhibit 1: Burden Hour Summary ⁴

Information Collection Requirement	No. of Respondents	Type of IC	Frequency	Annual Responses	Average Response Time	Annual Burden Hours	Hourly Rate ⁵	Annual Burden Hour Costs
Disclosures § 1041.9	9,045	3 rd Party Disclosure	On occasion	231,732,981	0.013	3,054,872	\$21.19	\$64,723,890
Prohibited payment transfer attempts – requirements and conditions for obtaining consumer’s authorization [§ 1041.8]	9,045	Recordkeeping	On occasion	14,478,524	0.009	134,715	\$25.54	\$3,440,461
Record Retention [§ 1041.12] ⁶	9,887	Recordkeeping	On occasion	120,085,002	0	0	\$0	\$0
Totals:	9,887*			366,296,507		3,189,587		68,164,351

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

A. Disclosures

The rule (12 CFR part 1041) requires notices related 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.

⁴ 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. One-time costs are included and annualized over a three-year period. The non-annualized costs are detailed below.

⁵ Bureau of Labor Statistics, May 2016, Occupational Employment and Wage Estimates, <http://www.bls.gov/oes/current/oesrsci.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.

⁶ This information collection requires lenders to retain records of the loan and payments made under it for 36 months. The Bureau believes that lenders do this for their own business purposes in the ordinary course of business already and so is assigning zero burden to this information collection.

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 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.

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.⁷ 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. Lenders are categorized by those who have their own internal disclosure systems and those that use Entity systems. For lenders with internal disclosure and Entity systems respectively, the Bureau estimates one-time burden costs of \$15,455,725 and \$1,351,167. Lenders would also have one-time burden costs for software seat licenses and staff training, which the Bureau estimates at \$2,300,505 and \$4,473,253 respectively.

i. Upcoming Payment Attempt and Unusual Payment Attempt Disclosures

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.

⁷ 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.

A respondent (lender) must provide a consumer with a first payment withdrawal notice before the lender initiates the first payment withdrawal from the consumer's account in connection with a covered loan. The respondent has flexibility to provide the first payment withdrawal notice at the time of loan origination or at a later time closer to the first payment withdrawal date.

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.⁸

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

ii. 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 lenders would be required to send the consumer rights notice for about 4 percent of payment requests.

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

B. 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

⁸ 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.

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.

C. Recordkeeping Requirements

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. Section 1041.12 provides that a lender making a covered loan must develop and follow written policies and procedures that are reasonably designed to ensure compliance with the requirements of part 1041. Section 1041.12(b) provides that a lender must retain evidence of compliance with part 1041 for 36

months after the date on which a covered loan ceases to be an outstanding loan. Sections 1041.12(b)(1), (4), and (5) set forth particular requirements for retaining specific records, including: retention of the loan agreement for each covered loan that the lender originates (§ 1041.12(b)(1)); retention of records relating to payment practices for covered loans (§ 1041.12(b)(4)); and electronic records in tabular format regarding payment practices for covered loans (§ 1041.12(b)(5)).

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 \$11,188,035. For the Bureau institutions subject to this rule, the total estimated cost burden annually would be approximately \$4,698,455. 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 small, these one-time cost estimates could potentially underestimate the true cost for some lenders.

Exhibit 2: Cost Burden Summary ⁹

Description of Costs (O&M)	Per Unit Costs	Quantity	Total Cost
Information Collection Requirement			
Disclosures [§ 1041.9]	\$0.05	231,732,981	\$10,961,522
Prohibited payment transfer attempts – requirements and conditions for obtaining consumer’s authorization [§ 1041.8]	\$0.02	14,478,524	\$226,513
Record Retention [§ 1041.12]	\$0.00	120,085,002	\$0
Totals:		366,296,507	\$11,188,035

⁹ Per unit cost estimates are subject to rounding error because they are derived from the quantity and total cost estimates. One-time costs are included and annualized over a three-year period. The non-annualized costs are detailed below.

A. Disclosures

i. Upcoming Payment Attempt and Unusual Payment Attempt Disclosures

An initial payment disclosure must be made to the borrower at least three days in advance of an attempt to collect payment. The Bureau believes that these disclosures would be provided by the lender at origination. The Bureau further 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, meaning these new disclosures could be generated automatically, once their systems are updated to account for the new requirements. For the remaining 20 percent, lenders would spend two minutes to enter payment information directly into the disclosure system.

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.

ii. 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 80 percent of notices would be delivered by e-mail, and 20 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.

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 burden associated with this ICR is new, and is the result of a program change due to agency discretion. All the burden considered in this request is considered to be a program change. As a result of this final rule and associated information collection, the Bureau estimates a new annual time burden of 366,296,507 hours and an annual cost burden of \$11,188,035. However, this Final Rule (RIN 3170-AA80) would substantially reduce the burdens associated with the previous payday lending current rule for 12 CFR part 1041 for which an information collection request was previously pending at OMB under OMB number 3170-0065. The previous information collection request was withdrawn on July 14, 2020. This final rule could result in a burden reduction of 5, 010,232 hours (from 8,199,819 to 3,189,587) and 89,656,332 cost burden (from \$100,844,367 to \$11,188,035) from what the Bureau estimated for the burdens associated with the 2017 Final Rule.

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, 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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