

**SUPPORTING STATEMENT FOR  
ELECTRONIC FUND TRANSFER ACT (REGULATION E)  
OMB CONTROL NO. 3170-0014**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Electronic Fund Transfer Act (EFTA), 15 U.S.C. 1693 *et seq.*, requires accurate disclosure of the costs, terms, and rights relating to electronic fund transfer (EFT) services and remittance transfer services to consumers. Entities offering EFT services must provide consumers with full and accurate information regarding consumers' rights and responsibilities in connection with EFT services. These disclosures are intended to protect the rights of consumers using EFT services, such as automated teller machine (ATM) transfers, telephone bill-payment services, point-of-sale transfers at retail establishments, electronic check conversion, and preauthorized transfers from or to a consumer's account. The EFTA also establishes error resolution procedures and limits consumer liability for unauthorized transfers in connection with EFT services. The EFTA and Regulation E impose disclosure and other requirements on issuers and sellers of gift cards, gift certificates, and general-use prepaid cards. The EFTA and Regulation E also provide protections for consumers in the United States who send remittance transfers to persons in a foreign country. These protections include disclosures, error resolution, and cancellation rights.

Under the Dodd-Frank Act, in addition to the transfer of rulemaking authority, the CFPB received certain enforcement authorities with respect to the EFTA. The EFTA also contains a private right of action with a one-year statute of limitations for aggrieved consumers.

**Recordkeeping**

Section 1005.13(b) of Regulation E requires entities subject to the EFTA to retain evidence of their compliance with the regulation for not less than two years. It also provides that any entity subject to the EFTA that is notified by the CFPB (or other administrative agency) that it is being investigated or is the subject of an enforcement proceeding, or that has been notified of a private or criminal action being filed, shall retain the records that pertain to the investigation, action, or proceeding until final disposition of the matter, or such earlier time as allowed by a court or agency order. The recordkeeping requirement ensures that records that might contain evidence of violations of the EFTA remain available to Federal agencies, as well as to private litigants.

In addition, Regulation E requires that the policies and procedures concerning

error resolution required of remittance transfer providers pursuant to § 1005.33(g)(1) include provisions regarding the retention of documentation related to error investigations. Remittance transfer providers must retain evidence of this compliance for two years. 12 CFR 1005.33(g)(2).

### **Disclosure**

The vast majority of Regulation E's disclosure requirements are statutorily mandated by the EFTA. *See, e.g.*, initial disclosures, 12 CFR 1005.7, 15 U.S.C. 1693c(a); change in terms, 12 CFR 1005.8, 15 U.S.C. 1693c(b); receipts at electronic terminals, 12 CFR 1005.9(a), 15 U.S.C. 1693d(a); periodic statements, 12 CFR 1005.9(b), 15 U.S.C. 1693c; certain preauthorized transfer requirements 12 CFR 1005.10, 15 U.S.C. 1693e; certain error resolution requirements, 12 CFR 1005.11, 15 U.S.C. 1693f; and disclosures for remittance transfers, 12 CFR 1005.31, 15 U.S.C. 1693o-1. The CFPB has issued model forms and clauses that can be used to comply with some of the written disclosure requirements of the EFTA and Regulation E. *See* Appendix A to Regulation E. Correct use of these model forms and clauses protects entities from liability for the respective requirements under the EFTA and Regulation E, provided that the usage accurately reflects, as applicable, an entity's EFT services and/or remittance transfer services. *Id.*

The Bureau adopted additional disclosure requirements for prepaid accounts pursuant to its authority under the EFTA and the Dodd-Frank Act in the Prepaid Account Final Rule. *See* §§ 1005.15(c) and 1005.18(b). The Prepaid Account Final Rule (81 FR 83934 (Nov. 22, 2016), as amended by 82 FR 18975 (Apr. 25, 2017) and 83 FR 6364 (Feb. 13, 2018) adopted requirements that expanded the account opening requirements in 12 CFR 1005.7(b)(5) as applied to prepaid accounts to require the disclosure of all fees that may be imposed in connection with the prepaid account, not just fees for EFTs or the right to make transfers. Further, the final rule contained new requirements that provide, among other things, that financial institutions must make certain disclosures available to consumers before a consumer agrees to acquire a prepaid account. The Prepaid Account Final Rule also adopted § 1005.19 to require prepaid account issuers to post agreements for prepaid accounts on their websites and to submit the agreements to the Bureau. The Bureau's final rule provides an alternative method of compliance to the periodic statement requirement for prepaid accounts, in §§ 1005.15(d) and 1005.18(c).

### **2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

Federal agencies and private litigants use the records to ascertain whether accurate and complete disclosures of EFT services, remittance transfer services, and other services covered under Regulation E have been provided and other required actions (for example, error resolution and limitation of consumer liability for unauthorized transfers) have been taken. This information will provide the primary evidence of law violations in EFTA

enforcement actions brought by the CFPB and other Federal agencies. Without recordkeeping requirements of Regulation E, the Federal agencies' abilities to enforce the EFTA would be significantly impaired. Consumers rely on the disclosures required by the EFTA and Regulation E to facilitate informed EFT decision making. Without this information, consumers would be severely hindered in their ability to assess the true costs and terms of the products offered. Also, without the special error resolution and limitation of consumer liability provisions, consumers would be unable to detect and correct unauthorized transfers and errors in their EFT and remittance transfer transactions. These disclosures and provisions are also necessary for the enforcement agencies to enforce the EFTA and Regulation E.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.**

Regulation E provides rules to establish uniform standards for using electronic communication to deliver disclosures required under Regulation E, within the context of the Electronic Signatures in Global and National Commerce Act (ESIGN), 15 U.S.C. 7001(c), *et seq.* 72 FR 63452 (Nov. 9, 2007). These rules enable businesses to use electronic disclosures, consistent with the requirements of ESIGN, which became effective on Oct. 1, 2000. Use of such electronic communications is also consistent with the Government Paperwork Elimination Act (GPEA), Title XVII of Pub. L. 105-277, codified at 44 U.S.C. 3504 note. ESIGN and GPEA serve to reduce businesses' compliance burden related to federal requirements, including Regulation E, by enabling businesses to utilize more efficient electronic media for disclosures and compliance. In certain circumstances, including in the Prepaid Account Final Rule, Regulation E permits electronic disclosure in situations that may not be compliant with ESIGN.

Regulation E also permits entities to retain records on any method capable of accurately retaining and reproducing information. Business entities need only retain evidence demonstrating that their procedures reasonably ensure the consumer's receipt of required disclosures and documentation; the entity need not retain records that disclosures and documentation were given to each consumer. Comment 1005.13(b)-1.

In addition, due to the nature of EFTs, most entities that use such transfers and are covered by the EFTA also use computer support and various electronic means to facilitate generation of the mandated disclosures, thereby limiting burden.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item A.2 above.**

The recordkeeping requirement of Regulation E preserves the information an

affected entity uses in making disclosures and taking other required actions regarding EFT services, remittance transfer services, and other services covered under Regulation E. The entity is the only source of this information. No other federal law mandates its retention, although some states may have similar requirements.

Similarly, covered entities are the only source of the information contained in the disclosures required by the EFTA and Regulation E. No other federal law mandates these disclosures. State laws do not duplicate these requirements, although some states may have other rules applicable to EFT services, remittance transfer services, and other services covered under Regulation E. However, there may be financial institutions that are also “card issuers” under Regulation Z that would be required to submit prepaid account agreements to the Bureau pursuant to § 1005.19(b) and open-end credit card account agreements pursuant to Regulation Z § 1026.58(c). The Bureau notes, however, that it does not believe it is likely that any agreement will constitute both a credit card agreement and a prepaid account agreement. The Bureau does not believe that an agreement will be required to be submitted twice (*i.e.*, under both Regulation E § 1005.19 and Regulation Z § 1026.58.) Prepaid account issuers that offer open-end overdraft credit features accessible by hybrid prepaid-credit cards, however, will have to submit their credit card agreements under Regulation Z and the prepaid account agreements under Regulation E.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

The Regulation E recordkeeping and disclosure requirements that are mandated by EFTA, the Dodd-Frank Act, and Regulation E on financial institutions and entities offering EFT services, remittance transfer services, and other services covered under Regulation E. The disclosure requirements are mandated by the EFTA and/or Regulation E.

Most entities offering EFT services, remittance transfer services, and other services covered under Regulation E today utilize some degree of computerization in their businesses, which further assists in facilitating compliance with Regulation E. Additionally, as noted above, Regulation E provides, and, model and sample forms that may be used to aid compliance with many of its disclosure requirements. Correct use of model forms insulates an entity from liability from the respective requirements.

**6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Information collection pursuant to Regulation E is triggered by specific events, and disclosures must be provided to consumers within the time periods established by the law and regulation. The current record retention period of two years supports the one-year statute of limitations for private actions, and the CFPB’s need for sufficient time to bring enforcement actions regarding EFT transactions and other transactions

subject to Regulation E. If the retention period were shortened, consumers who sue under the EFTA, and the administrative agencies that enforce the EFTA, might find that the records needed to prove EFTA violations no longer exist.

As noted, the disclosure requirements set forth in Regulation E are needed to foster informed decision-making for products and services covered by EFTA and Regulation E and to identify errors and unauthorized transfers. Without these requirements, consumers would not have access to this critical information, their right to sue under the EFTA would be undermined, and the CFPB and other administrative agencies charged with enforcing the EFTA could not fulfill their mandates.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- **requiring respondents to submit more than an original and two copies of any document;**
- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**
- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- **requiring the use of statistical data classification that has not been reviewed and approved by OMB;**
- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

The collections of information in Regulation E are consistent with the applicable guidelines contained in 5 CFR 1320.5(d)(2).

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

**Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

**Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection-of-information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

Per requirements in 44 USC 3506(c)(2)(a), the Bureau published a 60-day notice within the Federal Register<sup>1</sup>. The Bureau received one comment on this information collection from a representative of the Credit union industry asking the Bureau to issue guidance to clarify “expectations around token error investigations”. This request would require further action from the Bureau that is beyond the scope of the information collection extension. However, their request may be considered at an appropriate time at Bureau discretion.

Per requirements in 44 USC 3507(b), the Bureau also published a 30-day notice within the Federal Register<sup>2</sup>. That notice directed respondents to submit comments directly to the OMB desk officer per normative procedure.

**9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.**

Not applicable. This information collection does not provide payments of gifts to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Some of the required recordkeeping and disclosures contain private financial information about consumers who use EFT services, remittance services, and other services covered by Regulation E. Such information is protected by the Right to Financial Privacy Act, 12 U.S.C. 3401 *et seq.* Such records may also constitute confidential customer lists. Any of these records that contain private financial information that are provided to the CFPB would be covered by the protections of 12 CFR 1070.40 *et seq.*, section 1022(c) of the Dodd-Frank Act, and by the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b), as applicable. The prepaid account agreements collected pursuant to § 1005.19(b) do not contain any confidential information.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are**

<sup>1</sup> 86 FR 71453 (12/16/2021).

<sup>2</sup> 87 FR 13278 (3/9/2022).

**commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

This information collection contains no questions of a sensitive nature, as defined by OMB guidelines.

**12. Provide estimates of the hour burden of the collection of information. The statement should:**

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. General, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form.**
- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.**

The Bureau estimates the burden of this information collection as follows:

<b>Information Collection Requirement</b>	<b>Number of Respondents</b>	<b>Number of Responses per Respondent</b>	<b>Total Responses</b>	<b>Average Time Burden per Response</b>	<b>Total Annual Burden</b>
Transaction Receipts	100,000	40	4,000,000	1.2 minutes	80,000
Change in Terms	100,000	10	1,000,000	16.5 minutes	275,000
Payroll Disclosures	600,000	1	600,000	90 minutes	900,000
Recordkeeping	600,000	1	600,000	58.3 minutes	583,000
Error Resolution	100,000	10	1,000,000	3.96 minutes	66,000
Prepaid Account Short Form Additional Fee Type Disclosure, depository institutions	18	12	216	240 minutes	864
Prepaid Account Short Form Additional Fee Type Disclosure, non-depository institutions	142	12	1704	120 minutes	3,408

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Prepaid Account Error Resolution, depository institutions	2	539	1078	30 minutes	539
Prepaid Account Error Resolution, non-depository institutions	18	539	9702	15 minutes	2,426
Submission of Prepaid Account Agreements, depository institutions	36	5	180	5 minutes	15
Submission of Prepaid Account Agreements, non-depository institutions	10	5	50	3 minutes	2
Prepaid Account Short Form Additional Fee Type Disclosure, depository institutions	18	12	216	240 minutes	864
<i>1005.31 Disclosures</i>					
1005.31 Maintaining Disclosures	160	1	160	48 hours	7,680
<i>1005.33 Error Resolution</i>					
1005.33(b) Consumers asserting notices of error	191,189	1	190,189	5 minutes	15,849
1005.33(c)(1) Responding to notices of error	160	1189	190,189	5 minutes	15,849
1005.33 Maintaining error resolution policies	160	1	160	8 hours	1,280
<i>1005.35 Acts of Agent</i>					
Maintain requirements for agent compliance	160	1	160	8 hours	1,280
Agent compliance	33,500	1	33,500	42 hours	1,407,000
<b>TOTAL</b>	<b>600,000<sup>3</sup></b>		<b>7,627,504</b>		<b>3,361,056<sup>4</sup></b>

**13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).**

<sup>3</sup> The 600,000 figure is the unduplicated total number of respondents. The duplicated number of respondents (i.e. the mathematical sum of respondents in this table) is 1,725,573.

<sup>4</sup> Individual entries may not sum to total due to rounding.



There are no non-wage costs to respondents or recordkeepers resulting from this information collection.

**14. Provide estimates of the annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 into a single table.**

The Bureau does not incur any additional Federal annualized cost as a result of this information collection.

**15. Explain the reasons for any program changes or adjustments.**

The Bureau is not making program changes or adjustments to this information collection. However, the Bureau is adjusting the burden estimate due to updated/revised estimates pertaining to each of the subordinate information collection categories. The revised estimates are due to internal research and better burden accounting measures, not programmatic changes to these information collections.

**16. For collections of information whose results will be published, outline plans for tabulations, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

Not applicable. The Bureau will not publish the collected information.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

Not applicable. The Bureau is not seeking approval to not display the expiration date for OMB Control Number 3170-0014. Rather, the expiration date will be displayed on the Bureau's relevant ICR which can publicly viewed at <https://www.reginfo.gov/public/do/PRAMain>.

**18. Explain each exception to the certification statement.**

The Bureau certifies that this collection of information is consistent with the requirements contained within 5 CFR Sections 1320.9 and 1320.8(b)(3) and is not seeking an exemption to these certification requirements.