



[Billing code: 6750-01-S]

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice and request for comment.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, the Federal Trade Commission (“FTC” or “Commission”) is seeking public comments on its request to the Office of Management and Budget (“OMB”) for a three-year extension of the current PRA clearance for the information collection requirements contained in the Gramm-Leach-Bliley Financial Privacy Rule (GLB Privacy Rule), 16 CFR part 313. That clearance expires on September 30, 2014.

**DATES:** Comments must be received by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the SUPPLEMENTARY INFORMATION section below. You may file your comment online at <https://ftcpublic.commentworks.com/ftc/glbfinancialrulepra2> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the

following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, address comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5167.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information requirements should be addressed to Jessica Lyon, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Drop Box 8232, Washington, DC 20580, (202) 326-2344.

**SUPPLEMENTARY INFORMATION:**

*Title:* GLB Privacy Rule (officially titled Privacy of Consumer Financial Information Rule), 16 CFR part 313

*OMB Control Number:* 3084-0121.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* The GLB Privacy Rule is designed to ensure that customers and consumers, subject to certain exceptions, will have access to the privacy policies of the financial institutions with

which they conduct business. As mandated by the Gramm-Leach-Bliley Act, 15 U.S.C. 6801-6809, the Rule implements consumer disclosure requirements that are subject to the provisions of the PRA. The Rule requires financial institutions to disclose to consumers: (1) initial notice of the financial institution's privacy policy when establishing a customer relationship with a consumer and/or before sharing a consumer's non-public personal information with certain nonaffiliated third parties; (2) notice of the consumer's right to opt out of information sharing with such parties; (3) annual notice of the institution's privacy policy to any continuing customer;<sup>1</sup> and (4) notice of changes in the institution's practices on information sharing. The Rule does not require recordkeeping. For PRA burden calculations the FTC has attributed to itself the burden for all motor vehicle dealers and then shares equally the remaining PRA burden with the Consumer Financial Protection Bureau (CFPB) for other types of financial institutions for which both agencies have enforcement authority regarding the GLB Privacy Rule.

On June 19, 2014, the Commission sought comment on the Rule's information collection requirements.<sup>2</sup> The Commission did not receive any comments. As required by OMB regulations, 5 CFR 1320, the FTC is providing this second opportunity for public comment.

**Estimated annual hours burden:** 1,515,050 annual hours (FTC portion)

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<sup>1</sup> The Consumer Financial Protection Bureau has proposed amending Regulation P, to create an alternative delivery method for this annual disclosure, which financial institutions would be able to use under certain conditions. *See* 79 FR 27214 (May 13, 2014). Specifically, the CFPB proposes allowing financial institutions that do not engage in certain types of information-sharing activities to stop mailing an annual disclosure if they post the annual notices on their websites and meet certain other criteria. A financial institution would still be required to mail a disclosure if the institution, among other things, has changed its privacy practices or engages in information-sharing activities for which customers have a right to opt out.

<sup>2</sup> *See* 79 FR 35158 (60-Day Federal Register Notice).

As noted in previous burden estimates for the GLB Privacy Rule, determining the PRA burden of the Rule's disclosure requirements is very difficult because of the highly diverse group of affected entities, consisting of financial institutions not regulated by a Federal financial regulatory agency. *See* 15 U.S.C. 6805 (committing to the Commission's jurisdiction entities that are not specifically subject to another agency's jurisdiction).

The burden estimates represent the FTC staff's best assessment, based on its knowledge and expertise relating to the financial institutions subject to the Commission's jurisdiction under this law. To derive these estimates, staff considered the wide variations in covered entities. In some instances, covered entities may make the required disclosures in the ordinary course of business, apart from the GLB Privacy Rule. In addition, some entities may use highly automated means to provide the required disclosures, while others may rely on methods requiring more manual effort. The burden estimates shown below include the time that may be necessary to train staff to comply with the regulations. These figures are averages based on staff's best estimate of the burden incurred over the broad spectrum of covered entities.

Staff estimates that the number of entities each year that will address the GLB Privacy Rule for the first time will be 5,000 and the number of established entities already familiar with the Rule will be 100,000. While the number of established entities familiar with the Rule would theoretically increase each year with the addition of new entrants, staff retains its estimate of established entities for each successive year given that a number of the established entities will close in any given year, and also given the difficulty of establishing a more precise estimate.

Staff believes that the usage of the model privacy form and the availability of the form builder simplify and automate much of the work associated with creating the disclosure documents for new entrants. Staff thus estimates 1 hour of clerical time and 2 hours of professional/technical time per new entrant.

For established entities, staff similarly believes that the usage of the model privacy form and the availability of the Online Form Builder reduces the time associated with the modification of the notices. Staff thus estimates 7 hours of clerical time and 3 hours of professional/technical time per respondent. Staff estimates that no more than 1% of the estimated 100,000 established-entity respondents would make additional changes to privacy policies at any time other than the occasion of the annual notice.

The complete burden estimates for new entrants and established entities are detailed in the charts below.

**Annual start-up hours and labor costs for all new entrants (Table IA):**

Event	Hourly wage and labor category*	Hours per respondent	Approx. number of respondents	Approx. total annual hrs.	Approx. total labor costs
Reviewing internal policies and developing GLBA-implementing instructions **.	\$41.82 Professional/Technical .....	20	5,000	100,000	\$4,182,000
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	\$16.78 Clerical.....	1	5,000	5,000	83,900
	\$41.82 Professional/Technical.....	2	5,000	10,000	418,200
Disseminating initial disclosure (including opt-out notices).	\$16.78 Clerical .....	15	5,000	75,000	1,258,500
	\$41.82 Professional/Technical.....	10	5,000	50,000	2,091,000
Total .....	.....	.....	.....	240,000	\$8,033,600

\*Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on mean wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (e.g., compliance evaluation and/or planning, designing and producing notices, reviewing and

updating information systems), and clerical time (e.g., reproduction tasks, filing, and, where applicable to the given event, typing or mailing) respectively. See BLS Occupational Employment and Wages, May 2013, Table 1 at <http://www.bls.gov/news.release/pdf/ocwage.pdf>. Labor cost totals reflect solely that of the commercial entities affected. Staff estimates that the time required of consumers to respond affirmatively to respondents' opt-out programs (be it manually or electronically) would be minimal.

\*\*Reviewing instructions includes all efforts performed by or for the respondent to: determine whether and to what extent the respondent is covered by an agency collection of information, understand the nature of the request, and determine the appropriate response (including the creation and dissemination of documents and/or electronic disclosures).

**Burden hours and costs for all established entities (Table IB):**

Burden for established entities already familiar with the Rule predictably would be less than for new entrants because start-up costs, such as crafting a privacy policy, are generally one-time costs and have already been incurred. Staff's best estimate of the average burden for these entities is as follows:

Event	Hourly wage and labor category*	Hours per respondent	Approx. number of respondents**	Approx. total annual hrs.	Approx. total labor costs
Reviewing GLBA-implementing policies and practices.	\$41.82 Professional/Technical .....	4	70,000	280,000	\$11,709,600
Disseminating annual disclosure. ....	\$16.78 Clerical .....	15	70,000	1,050,000	17,619,000
	\$41.82 Professional/Technical.....	5	70,000	350,000	14,637,000
Changes to privacy policies and related disclosures.	\$16.78 Clerical .....	7	1,000	7,000	117,460
	\$41.82 Professional/Technical .....	3	1,000	3,000	125,460
Total .....	.....	.....	.....	1,690,000	\$44,208,520

\*Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on mean wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (e.g., compliance evaluation and/or planning, designing and producing notices, reviewing and updating information systems), and clerical time (e.g., reproduction tasks, filing, and, where applicable to the given event, typing or mailing) respectively. See BLS Occupational Employment and Wages, May 2013, Table 1 at <http://www.bls.gov/news.release/pdf/ocwage.pdf>. Labor cost totals reflect solely that of the affected commercial entities. Consumers have a continuing right to opt out, as well as a right to revoke their opt-out at any time. When a respondent changes its information sharing practices, consumers are again given the opportunity to opt out. Again, staff assumes that the time required of consumers to respond affirmatively to respondents' opt-out programs (be it manually or electronically) would be minimal.

\*\*The estimate of respondents is based on the following assumptions: (1) 100,000 established respondents, approximately 70% of whom maintain customer relationships exceeding one year, (2) no more than 1% (1,000) of whom make additional changes to privacy policies at any time other than the occasion of the annual notice; and (3) such changes will occur no more often than once per year.

As calculated above, the total annual PRA burden hours and labor costs for all affected entities in a given year would be 1,930,000 hours and \$52,242,120, respectively.

The FTC now carves out from these overall figures the burden hours and labor costs associated with motor vehicle dealers. This is because the CFPB does not enforce the GLB Privacy Rule for those types of entities. We estimate the following:

**Annual start-up hours and labor costs for new entrants – motor vehicle dealers only (Table IIA):**

Event	Hourly wage and labor category	Hours per respondent	Approx. number of respondents (Table IA inputs x 0.57)	Approx. total annual hrs.	Approx. total labor costs
Reviewing internal policies and developing GLBA-implementing instructions **.	\$41.82 Professional/Technical.....	20	2,850	57,000	\$2,383,740
Creating disclosure document or electronic disclosure (including initial, annual, and opt out disclosures).	\$16.78 Clerical .....	1	2,850	2,850	47,823
	\$41.82 Professional/Technical .....	2	2,850	5,700	238,374
Disseminating initial disclosure (including opt out notices).	\$16.78 Clerical .....	15	2,850	42,750	717,345
	\$41.82 Professional/Technical.....	10	2,850	28,500	1,191,870
Total .....	.....	.....	.....	136,800	\$4,579,152

\*\*Multiply the number of respondents from the comparable table above on all new entrants by the following allocation (60,000/105,000) = 0.57. The number in the denominator represents the total of the FTC's existing GLB Rule estimates for new entrants (5,000) and established entities (100,000). The numerator represents an estimate of motor vehicle respondents. For this category, Commission staff relied on the following industry estimates: 17,635 new car dealers per [National Automobile Dealers Association](#) data (2013) and 35,000 independent/used car dealers per [National Independent Automobile Dealers Association](#) data (2012), respectively, multiplied by an added factor of 1.10 to cover for an unknown quantity of additional motor vehicle dealer types (motorcycles, boats, other recreational vehicles) also covered within the definition of "motor vehicle dealer" under section 1029(a) of the Dodd-Frank Act.

**Annual burden hours and labor costs for all established entities – motor vehicle dealers only (Table IIB):**

Event	Hourly wage and labor category*	Hours per respondent	Approx. number of respondents** (Table IB inputs x 0.57)	Approx. total annual hrs.	Approx. total labor costs
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Reviewing GLBA-implementing policies and practices.	\$41.82 Professional/Technical.....	4	39,900	159,600	\$6,674,472
Disseminating annual disclosure .....	\$16.78 Clerical .....	15	39,900	598,500	10,042,830
Changes to privacy policies and related disclosures.	\$41.82 Professional/Technical.....	5	39,900	199,500	8,343,090
	\$16.78 Clerical .....	7	570	3,990	66,952
Total .....	\$41.82 Professional/Technical.....	3	570	1,710	71,512
	.....	.....	.....	963,300	\$25,198,856

The FTC’s portion of the annual hourly burden would be  $1,100,100 \text{ hours} + ((1,930,000 - 1,100,100) / 2) = 1,515,050$  annual hours. The FTC’s portion of the annual cost burden would be  $\$29,778,008 + \$((52,242,120 - 29,778,008) / 2) = \$41,010,064$ .

**Estimated Capital/Other Non-Labor Costs Burden:**

Staff believes that capital or other non-labor costs associated with the document requests are minimal. Please see the 60-Day Federal Register notice for more details.

*Request for Comments*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Write “Paperwork Comment: FTC File No. P085405” on your comment. Your comment - including your name and your state - will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which is . . . privileged or confidential," as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you are required to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comment online, or to send it to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublishcommentworks.com/ftc/globfinancialrulepra2>,

by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov>, you also may file a comment through that website.

If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.shtm>.

Comments on the information collection requirements subject to review under the PRA should also be submitted to OMB. If sent by U.S. mail, address comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395-5167.

Christian S. White,  
Deputy General Counsel.

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