



FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting) (FR V¹; OMB No. 7100-0308).

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by *FR V*, by any of the following methods:

- Agency Website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include OMB number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's website at

<http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for

¹ The internal Agency Tracking Number previously assigned by the Board to this information collection was "Reg V." The Board is changing the internal Agency Tracking Number for the purpose of consistency.

technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, N.W., Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB’s public docket files, if approved. These documents will also be made available on the Board’s public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to

approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB delegated authority to extend for three years, without revision, the following information collection:

Report title: Recordkeeping and Disclosure Requirements Associated with Regulation V (Fair Credit Reporting).

Agency form number: FR V.

OMB control number: 7100-0308.

Frequency: Annually, monthly, and on occasion.

Respondents: Depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii): (1) regardless of size, with respect to the identity theft red flags provisions of the Board's Fair Credit Reporting Act (FCRA) regulations; and (2) with \$10 billion or less in assets and any affiliates thereof, and consumers of such institutions, with respect to enforcing the Consumer Financial Protection Bureau's (Bureau's) FCRA regulations.

Estimated number of respondents: Negative information notice, 1,450 respondents; Affiliate marketing: Notices to consumers, 1,381 respondents, and Consumer opt-out response, 1,562,835 respondents; Identity theft red flags, 2,206 respondents; Address discrepancies, 1,450 respondents; Risk-based pricing: Notice to consumers, 1,450 respondents; Furnisher duties: Policies and procedures, 1,450 respondents, and Notice of frivolous disputes to consumers, 1,450 respondents.

Estimated average hours per response: Negative information notice, 0.25 hour; Affiliate marketing: Notices to consumers, 18 hours, and Consumer opt-out response, 0.08 hour; Identity theft red flags, 37 hours; Address discrepancies, 4 hours; Risk-based pricing: Notice to consumers, 5 hours; Furnisher duties: Policies and procedures, 40 hours, and Notice of frivolous disputes to consumers, 0.23 hour.

Estimated annual burden hours: Negative information notice, 363 hours; Affiliate marketing: Notices to consumers, 24,858 hours, and Consumer opt-out response, 125,027 hours; Identity

theft red flags, 81,622 hours; Address discrepancies, 5,800 hours; Risk-based pricing: Notice to consumers, 87,000 hours; Furnisher duties: Policies and procedures, 58,000 hours, and Notice of frivolous disputes to consumers, 140,737 hours.

General description of report: The FCRA was enacted in 1970 based on a Congressional finding that the banking system is dependent on fair and accurate credit reporting.² The FCRA requires consumer reporting agencies to adopt reasonable procedures that are fair and equitable to the consumer with regard to the confidentiality, accuracy, relevancy, and proper utilization of consumer information.³ The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), enacted in 2010, transferred to the Bureau most, but not all, of the rulemaking authority for issuing regulations under the FCRA.⁴ The Board and other federal agencies retained rulemaking responsibility for the FCRA provisions regarding identity theft prevention programs and the duties of card issuers to validate consumers' changes of address (hereinafter, identity theft red flags), as well as the disposal of consumer information, with respect to the entities that are subject to each agency's respective enforcement authority.⁵ The Board and Federal Trade Commission (FTC) also retained rulemaking authority for certain provisions of the FCRA applicable to motor vehicle dealers.⁶ In addition, the Board is authorized to enforce

² The FCRA is one part of the Consumer Credit Protection Act, which also includes the Truth in Lending Act, Equal Credit Opportunity Act, and Fair Debt Collection Practices Act. See 15 U.S.C. 1601 et seq.

³ See 15 U.S.C. 1681.

⁴ The Bureau and the Board each have issued regulations implementing the FCRA. On December 21, 2011, the Bureau published an interim final rule establishing a new Regulation V. See 76 FR 79308 (Dec. 21, 2011), implementing the Bureau's FCRA regulations in 12 CFR Part 1022. The information collection provisions in the Bureau's FCRA regulations are contained in Appendix B to 12 CFR Part 1022; and in 12 CFR 1022.20 - .27, 1022.40 - .43, 1022.70 - .75, and 1022.82. The Board's FCRA regulations are implemented in the Board's Regulation V. See 12 CFR Part 222. The information collection provisions in the Board's FCRA regulations applicable to institutions for which the Board has primary enforcement authority are contained in 12 CFR 222.90 - .91.

⁵ See section 1088(a)(10) of the Dodd-Frank Act, 15 U.S.C. 1681s(b) & (e); see also 15 U.S.C. 1681m and 1681w.

⁶ See section 1029 of the Dodd-Frank Act, 12 U.S.C. 5519(a) & (c), which provides generally that rulemaking authority for provisions of the federal consumer financial laws, including the FCRA, applicable to certain motor vehicle dealers are not within the Bureau's jurisdiction and must be implemented in regulations issued by the Board or the FTC. The FTC accounts for the PRA burden for motor vehicle dealers' compliance with the FCRA

compliance with the information collection requirements contained in the Bureau's FCRA regulations applicable to institutions⁷ identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets, and applicable to consumers of these institutions.

Legal authorization and confidentiality:

As amended by sections 1025 and 1088(a)(10) of the Dodd-Frank Act, the Board is authorized to enforce compliance with the information collection requirements contained in the Bureau's FCRA regulations (Appendix B to 12 CFR Part 1022; and 12 CFR 1022.20 - .27, 1022.40 - .43, 1022.70 - .75, and 1022.82) applicable to institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets, and applicable to consumers of these institutions (See 15 U.S.C. 1681s(b); 12 U.S.C. 5515). Additionally, pursuant to section 1088(a)(2) and (10) of the Dodd-Frank Act, the Board retained authority under the FCRA to prescribe and enforce the information collection requirements in the Board's FCRA regulations relating to identity theft red flags (12 CFR 222.90 - .91) for institutions of any size, which are identified in 15 U.S.C. 1681s(b)(1)(A)(ii) (See 15 U.S.C. 1681m(e), and 1681s(b) and (e)).

The obligation to comply with the foregoing recordkeeping and disclosure requirements contained in the FCRA regulations prescribed by the Board and the FCRA regulations prescribed by the Bureau is mandatory, except for the consumer opt-out responses, which consumers are required to submit to affiliates of an institution in order to obtain a benefit (i.e., to stop receiving solicitations for marketing purposes). Because the records and disclosures required under the Board's FCRA regulations and the Bureau's FCRA regulations are not

regulations. See, e.g., 78 Fed. Reg. 16265, 16266 n. 11 (Mar. 14, 2013).

⁷ Pursuant to the Dodd-Frank Act, for certain federal consumer financial laws, the Bureau has primary enforcement authority over the Bureau's FCRA regulations with respect to, among other entities, insured depository institutions (banks and savings associations) with over \$10 billion in assets and any affiliates thereof. See 12 U.S.C. 5515; see also 12 U.S.C. 5514(a) and 5516. However, the Board retained enforcement authority over the Bureau's FCRA regulations with respect to depository institutions identified in 15 U.S.C. 1681s(b)(1)(A)(ii) with \$10 billion or less in assets and consumers of these institutions. See 15 U.S.C. 1681s(b); and 12 U.S.C. 5515.

provided to the Board, and because all records are maintained at Board-supervised institutions, no issue of confidentiality generally arises under the Freedom of Information Act (FOIA). In the event such records or disclosures are obtained by the Board as part of an examination or supervision of a financial institution, this information is considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in “examination, operating, or condition reports” obtained in the bank supervisory process (5 U.S.C. 552(b)(8)). In addition, certain information (such as records generated during the investigation of a direct dispute notice submitted by a consumer) may also be withheld under exemption 6 of the FOIA, which protects from disclosure information that “would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(6)).

Board of Governors of the Federal Reserve System, March 14, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

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