



[Billing Code: 6750-01-S]

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (“PRA”), the Federal Trade Commission (“FTC” or “Commission”) is seeking public comment on its proposal to extend for an additional three years the Office of Management and Budget clearance for information collection requirements in the Privacy of Consumer Financial Information Rule (“Privacy Rule” or “Rule”). That clearance expires on November 30, 2020.

DATES: Comments must be submitted by **[INSERT DATE 60 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. Write “Privacy Rule: Paperwork Comment: FTC File No. P085405” on your comment and file your comment online at <https://www.regulations.gov>, by following the instructions on the web-based form. If you prefer to file your comment on paper, mail 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.

FOR FURTHER INFORMATION CONTACT: David Lincicum, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW., Washington, DC 20580, (202) 326-2773.

SUPPLEMENTARY INFORMATION:

Title of Collection: Privacy of Consumer Financial Information (Gramm-Leach-Bliley Act Privacy Rule), 16 CFR Part 313.

OMB Control Number: 3084-0121.

Type of Review: Extension without change of currently approved collection.

Affected Public: Private Sector: Businesses and other for-profit entities.

Estimated Annual Burden Hours: 1,345,950.

Estimated Annual Labor Costs: \$30,363,151.

Abstract:

The Privacy Rule is designed to ensure that customers and consumers, subject to certain exceptions, will have access to the privacy policies of the covered financial institutions with which they conduct business – namely, motor vehicle dealers that do not routinely extend credit to consumers directly without assigning the credit to unaffiliated third parties (hereafter, “motor vehicle dealers”). As mandated by the Gramm-Leach-Bliley Act (“GLBA”), 15 U.S.C. 6801-6809, the Rule requires motor vehicle dealers 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 nonpublic 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;¹ and (4)

¹ On December 4, 2015, Congress amended the GLBA as part of the Fixing America’s Surface Transportation Act (“FAST Act”). This amendment, titled Eliminate Privacy Notice Confusion (FAST Act, Pub. L.

notice of changes in the institution's practices on information sharing. These requirements are subject to the PRA. The Rule does not require recordkeeping. For PRA burden calculations, the FTC shares the PRA burden with the CFPB for financial institutions over which both agencies have enforcement authority under the CFPB's regulation corresponding to the Privacy Rule, titled Privacy of Consumer Financial Information (Regulation P), 12 CFR pt. 1016, and attributes to itself the burden for all motor vehicle dealers. *See* 12 U.S.C. 5519.

Burden Estimates:

FTC staff estimates that approximately 29,500 non-motor vehicle dealer financial institutions are subject to FTC jurisdiction under Regulation P, consisting of approximately 29,000 established entities and 500 new entrants annually during the renewal period. The complete burden estimates for new entrants and established entities are detailed in the charts below.

1. Established financial institutions

For established entities, staff believes that the model privacy form and the Online Form Builder reduce the time associated with providing required initial and annual notices. Businesses who have not changed their privacy notice since the last notice sent and who do not share information with non-affiliated third parties outside of certain statutory exceptions are not required to issue annual notices to their customers under GLBA section 503(f). FTC staff thus estimates that at least 80% of businesses covered by Regulation P will not be required to issue annual notices. Finally, staff estimates that no more than 1% of the estimated 29,000

114094, section 75001) added new GLBA section 503(f). This subsection provides an exception under which financial institutions that meet certain conditions are not required to provide annual privacy notices to customers. Section 503(f) requires that to qualify for this exception, a financial institution must not share nonpublic personal information about customers except as described in certain statutory exceptions, under which sharing does not trigger a customer's statutory right to opt out of the sharing. In addition, section 503(f)(2) requires that the financial institution must not have changed its policies and practices with regard to disclosing nonpublic personal information from those that the institution disclosed in the most recent privacy notice the customer received.

established-entity respondents would make additional changes to privacy policies at any time other than the occasion of the annual notice.

Activity	Hours per respondent	Approx. number of respondents ²	Approx. total annual hrs.	FTC portion	Hourly wage and labor category ³	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions. ⁴	4	29,000	116,000	58,000	\$38.55 Professional/ Technical	\$2,235,900
Disseminating initial notices to new customers.	15	29,000	435,000	217,500	\$17.19 Clerical	\$3,738,825
Disseminating annual disclosure to pre-existing customers.	15	4,060	60,900	30,450	\$17.19 Clerical	\$523,436
	5	4,060	20,300	10,150	\$38.55 Professional/ Technical	\$391,283
Updating privacy policies and related disclosures.	7	290	2,030	1,015	\$17.19 Clerical	\$17,448
	3	290	870	435		\$7,478
Totals:			635,100	317,550		\$6,914,370

2. New entrant financial institutions

New entrant financial institutions subject to FTC jurisdiction under Regulation P must provide initial disclosure notices to their consumers, including taking the time to develop

² The estimate of respondents which are required to disseminate annual notices is based on the following assumptions: (1) 29,000 established respondents, approximately 70% of whom maintain customer relationships exceeding one year; (2) no more than 20% (4,060) of whom have made changes to their policies and share nonpublic information outside of the statutory exceptions, and therefore are required to provide annual notices under GLB Act section 503(f); and (3) and no more than 1% (290) of whom make additional changes to privacy policies at any time other than the occasion of the annual notice; and (4) such changes will occur no more often than once per year.

³ Staff calculated labor costs by applying appropriate hourly cost figures to burden hours. The hourly rates used were based on median wages for Financial Examiners and for Office and Administrative Support, corresponding to professional/technical time (e.g., compliance evaluation and 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 2018, Table 1 at <http://www.bls.gov/news.release/pdf/ocwage.pdf>.

⁴ This 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).

implementing policies and procedures and create disclosure documents to effectuate the disclosure requirements. Staff's estimates of annual burden for established entities is as follows:

Activity	Hours per respondent	Approx. number of respondent	Approx. total annual hrs.	FTC portion	Hourly wage and labor category ⁵	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions.	20	500	10,000	5,000	\$38.55 Professional/ Technical	\$192,750
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	1	500	500	250	\$17.19 Clerical	\$4,298
	2	500	1,000	500	\$38.55 Professional/ Technical	\$19,275
Disseminating initial disclosure (including opt-out notices).	15	500	7,500	3,750	\$17.19 Clerical	\$64,463
	10	500	5,000	2,500	\$38.55 Professional/ Technical	\$96,375
Totals			240,000	12,000		\$377,161

3. Established Motor Vehicle Dealers

FTC has sole authority over motor vehicle dealers subject to the Rule. Staff estimates that approximately 44,000 auto dealers are subject to the Rule's requirements, consisting of 42,000 established dealers and 2,000 new entrants during the renewal period. FTC staff provides the following burden estimates for established motor vehicle dealers:

⁵ Staff calculated labor costs by applying appropriate hourly cost figures to burden hours, as described in footnote 3 above.

Activity	Hours per respondent	Approx. no. of Respondents ⁶	Approx. total annual hrs.	Hourly wage and labor category ⁷	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions.	4	42,000	168,000	\$38.55 Professional/ Technical	\$6,476,000
Disseminating initial notices to new customers.	15	42,000	630,000	\$17.19 Clerical	\$10,829,700
Disseminating annual disclosure.	15	5,880	88,200	\$17.19 Clerical	\$1,516,158
	5	5,880	29,400	\$38.55 Professional/ Technical	\$1,133,370
Updating privacy policies and related disclosures.	7	420	2,940	\$17.19 Clerical	\$50,539
	3	420	1,260	\$38.55 Professional/ Technical	\$48,573
Totals:			920,400		\$20,054,340

4. New Entrant Motor Vehicle Dealers

FTC staff provides the following burden estimates for established new entrant motor vehicle dealers:

Activity	Hours per respondent	Approx. number of respondents	Approx. total annual hrs.	Hourly wage and labor category	Approx. total labor costs
Reviewing internal policies and developing GLB Act-implementing instructions.	20	2,000	40,000	\$38.55 Professional/Technical	\$1,542,000
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	1	2,000	2,000	\$17.19 Clerical	\$34,380
	2	2,000	4,000	\$38.55 Professional/ Technical	\$154,200
Disseminating initial disclosure (including opt-out notices).	15	2,000	30,000	\$17.19 Clerical	\$515,700

⁶ For this estimate, Commission staff relies on industry estimates based on census data and information from the National Automobile Dealers Association and National Independent Automobile Dealers Association.

⁷ Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. See BLS Occupational Employment and Wages, May 2018, Table 1 at <http://www.bls.gov/news.release/pdf/ocwage.pdf>.

	10	2,000	20,000	\$38.55 Professional/ Technical	\$771,000
Totals:			96,000		\$3,017,280

Estimated non-labor costs:

Staff believes that capital or other non-labor costs associated with these information collection requirements are minimal. Staff anticipates that covered entities are already equipped to provide written notices (*e.g.*, computers with word processing programs, copying machines, mailing capabilities). In addition, staff anticipates that entities that offer consumers the choice to receive notices via electronic format will already have an online presence to support this option. As such, these entities will already be equipped with the computer equipment and software necessary to disseminate the required disclosures via electronic means.

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing clearance for the information collection requirements contained in the Privacy Rule, 16 CFR Part 313 (OMB Control No. 3084-0121).

Request for Comment:

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality,

utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

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 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Write “Privacy Rule: Paperwork Comment: FTC File No. P085405” on your comment. Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it through the <https://www.regulations.gov> website by following the instructions on the web-based form provided. Your comment, including your name and your state – will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

If you file your comment on paper, write “Privacy Rule: Paperwork Comment: FTC File No. P085405” on your comment and on the envelope, and mail 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, Washington, DC 20024. If possible, please submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or

anyone else’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, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential” – as provided by 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) – including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the <https://www.regulations.gov> website – as legally required by FTC Rule 4.9(b) – we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

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 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. For

information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

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