



BILLING CODE: 4810-33-P

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**Agency Information Collection Activities:**

**Information Collection Renewal; Submission for OMB Review;**

**Fair Credit Reporting: Affiliate Marketing**

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury.

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

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the renewal of an information collection as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of an information collection titled, "Affiliate Marketing." The OCC also is giving notice that it has sent the collection to OMB for review.

**DATES:** Comments must be submitted on or before [INSERT DATE 30 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by e-mail, if possible.

Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557-0230, 400 7<sup>th</sup> Street, SW., suite 3E-218, mail stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7<sup>th</sup> Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557-0230, U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503 or by email to: *oira\_submission@omb.eop.gov*.

**FOR FURTHER INFORMATION CONTACT:** Shaquita Merritt, OCC Clearance Officer, (202) 649-5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7<sup>th</sup> Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC requests that OMB extend its approval of the following collection.

Title: Fair Credit Reporting: Affiliate Marketing.

OMB Control No.: 1557-0230.

Type of Review: Regular.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 97,773.

Total Annual Burden: 10,281 hours.

Description: Section 214 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act),<sup>1</sup> which added section 624 to the Fair Credit Reporting Act (FCRA),<sup>2</sup> generally prohibits a person from using certain information received from an affiliate to make a solicitation for marketing purposes to the consumer, unless the consumer is given notice and an opportunity and simple method to opt out of such solicitations.

Twelve CFR 1022.20-1022.27 requires financial institutions to issue notices informing consumers about their rights under section 214 of the FACT Act. Consumers use the notices to decide if they want to receive solicitations for marketing purposes or

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<sup>1</sup> Pub. L. 108-159, 117 Stat. 1952 (December 4, 2003).

<sup>2</sup> 15 U.S.C. 1681 *et seq.*

opt out. Financial institutions use the consumers' opt-out responses to determine the permissibility of making a solicitation for marketing purposes.

If a person receives certain consumer eligibility information from an affiliate, the person may not use that information to make solicitations to the consumer about its products or services, unless the consumer is given notice and a simple method to opt out of such use of the information, and the consumer does not opt out. Exceptions include, a person using eligibility information: (1) to make solicitations to a consumer with whom the person has a pre-existing business relationship; (2) to perform services for another affiliate subject to certain conditions; (3) in response to a communication initiated by the consumer; or (4) to make a solicitation that has been authorized or requested by the consumer. A consumer's affiliate marketing opt-out election must be effective for a period of at least five years. Upon expiration of the opt-out period, the consumer must be given a renewal notice and an opportunity to renew the opt-out before information received from an affiliate may be used to make solicitations to the consumer.

Comments: On October 25, 2016, the OCC issued a 60-day notice soliciting comment on the information collection, 81 FR 73473. No comments were received.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including

through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: January 26, 2017

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[FR Doc. 2017-02357 Filed: 2/3/2017 8:45 am; Publication Date: 2/6/2017]