



Billing code: 6750-01-S

FEDERAL TRADE COMMISSION

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

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the FTC is seeking public comments on its request to OMB to extend for three years the current PRA clearances for information collection requirements contained in the agency's shared enforcement with the Consumer Financial Protection Bureau ("CFPB") of subpart N of the CFPB's Regulation V ("Rule"). That clearance expires on November 30, 2018.

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 Comments part of the SUPPLEMENTARY INFORMATION section below. Write "Paperwork Reduction Act: FTC File No. P072108" on your comment, and file your comment online at

<https://ftcpublic.commentworks.com/ftc/regulationVsubpartNpra2> 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: Requests for additional information or copies of the proposed information requirements should be addressed to Ryan Mehm, Attorney, Bureau of Consumer Protection, (202) 326-2918, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Title: Regulation V, Subpart N (12 C.F.R. §§ 1022.130 - 1022.138).

OMB Control Number: 3084-0128.

Type of Review: Extension of a currently approved collection.

Abstract: The FTC shares enforcement authority with the CFPB for subpart N of Regulation V. Subpart N requires nationwide consumer reporting agencies and nationwide consumer specialty reporting agencies to provide to consumers, upon request, one free file disclosure within any 12-month period. Generally, it requires the nationwide consumer reporting agencies, as defined in Section 603(p) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. 1681a(p), to create and operate a centralized source that provides consumers with the ability to request their free annual file disclosures from each of the nationwide consumer reporting agencies through a centralized internet website, toll-free telephone number, and postal address. Subpart N also requires the nationwide consumer reporting agencies to establish a standardized form for internet and mail requests for annual file disclosures, and provides a model standardized form that may be used to comply with that requirement. It additionally requires nationwide specialty

consumer reporting agencies, as defined in Section 603(w) of the FCRA, 15 U.S.C. 1681a(w), to establish a streamlined process for consumers to request annual file disclosures. This streamlined process must include a toll-free telephone number for consumers to make such requests.

On August 27, 2018, the FTC sought public comment on the information collection requirements associated with subpart N (83 FR 43683). No relevant public comments were received. Since the FTC sought public comment on August 27, 2018, the Consumer Data Industry Association provided an updated estimate regarding the number of free annual file disclosures requested by consumers through the centralized Internet website required to be established by the FACT Act and subpart N. Accordingly, the FTC updated the PRA burden analysis based on this data.

Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing a second opportunity for the public to comment on: (1) Whether the disclosure requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

Burden statement:

Because the FTC shares enforcement authority with the CFPB for subpart N, the two agencies split between them the related estimate of PRA burden for firms under their co-enforcement jurisdiction. The overall burden calculations attributable to the CFPB

and the FTC, are set out below. In summary after splitting between the two agencies, the estimated annual burden solely for FTC would be 176,360 hours, \$3,560,755 in associated labor costs, and \$5,677,650 in non-labor/capital costs.

A. Requests Per Year From Consumers for Free Annual File Disclosures

The Consumer Data Industry Association (“CDIA”) estimated that in 2016 and 2017, the nationwide consumer reporting agencies provided on average approximately 25 million free annual file disclosures through the centralized Internet website required to be established by the FACT Act and subpart N. Based on its knowledge of the industry, FTC staff believes that the consumer reporting agencies provided no more than 6 million free annual file disclosures through the centralized toll-free telephone number and postal address required to be established by the FACT Act and subpart N. Accordingly, we are now estimating 31 million requests per year as a representative average year to estimate PRA burden for purposes of the instant analysis. When it last sought clearance renewal for the Rule, the FTC had been unable to obtain, through public comment or otherwise, updated information on request volume. As a proxy, it then assumed a volume of 35 million requests per year. The CDIA attributes this decrease to the many new and alternative channels where consumers can access credit reports.

B. Annual File Disclosures Provided Through the Internet

Both nationwide and nationwide specialty consumer reporting agencies will likely handle the overwhelming majority of consumer requests through Internet websites. The annual file disclosure requests processed through the Internet will not impose any hours burden per request on the nationwide and nationwide specialty consumer reporting

agencies. However, consumer reporting agencies periodically will be required to adjust the Internet capacity needed to handle the changing request volume. Consumer reporting agencies likely will make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Trained personnel will need to spend time negotiating and renegotiating such contracts. Commission staff estimates that negotiating such contracts will require a cumulative total of 8,320 hours and \$598,957 in labor costs. Based on the time necessary for similar activity in the federal government (including at the FTC), staff estimates that such contracting and administration will require approximately four full-time equivalent employees (“FTE”) for the web service contracts. Thus, staff estimates that administering the contract will require four FTE, which is 8,320 hours per year (four FTE x 2,080 hours/year). The cost is based on the reported May 2017 Bureau of Labor Statistics (BLS) rate (\$71.99) for computer and information systems managers. *See Occupational Employment and Wages – May 2017, Table 1, available at <https://www.bls.gov/news.release/ocwage.t01.htm>.* Thus, the estimated setup and maintenance cost for an Internet system is \$598,957 per year (8,320 hours x \$71.99/hour).¹ Such activity is treated as an annual burden of maintaining and adjusting the changing Internet capacity requirements.

¹ Based on the time necessary for similar activity in the federal government (including at the FTC), staff estimates that such contracting and administration will require approximately four full-time equivalent employees (“FTE”) for the web service contracts. Thus, staff estimates that administering the contract will require four FTE, which is 8,320 hours per year (four FTE x 2,080 hours/year). The cost is based on the reported May 2017 Bureau of Labor Statistics (BLS) rate (\$71.99) for computer and information systems managers. *See Occupational Employment and Wages – May 2017, Table 1, available at <https://www.bls.gov/news.release/ocwage.t01.htm>.* Thus, the estimated setup and maintenance cost for an Internet system is \$598,957 per year (8,320 hours x \$71.99/hour).

C. Annual File Disclosures Requested Over the Telephone

Most of the telephone requests for annual file disclosures will also be handled in an automated fashion, without any additional personnel needed to process the requests. As with the Internet, consumer reporting agencies will require additional time and investment to increase and administer the automated telephone capacity for the expected increase in request volume. The nationwide and nationwide specialty consumer reporting agencies will likely make such adjustments by negotiating or renegotiating outsourcing service contracts annually or as conditions change. Staff estimates that this will require a total of 6,240 hours at a cost of \$449,218 in labor costs.² This activity also is treated as an annual recurring burden necessary to obtain, maintain, and adjust automated call center capacity.

D. Annual File Disclosures Requiring Processing by Mail

Based on their knowledge of the industry, staff believes that no more than 1% of consumers (1% x 31 million, or 310,000) will request an annual file disclosure through U.S. postal service mail. Staff estimates that clerical personnel will require 10 minutes per request to handle these requests, thereby totaling 51,667 hours of time. [(310,000 x 10 minutes)/60 minutes per hour = 51,667 hours]

² Staff estimates that recurring contracting for automated telephone capacity will require approximately three FTE, a total of 6,240 hours (3 x 2,080 hours). Applying an hourly wage rate of \$71.99 (*see supra* note 1), estimated setup and maintenance cost is \$449,218 (6,240 x \$71.99) per year.

In addition, whenever the requesting consumer cannot be identified using an automated method (a website or automated telephone service), it will be necessary to redirect that consumer to send identifying material along with the request by mail. Staff estimates that this will occur in about 5% of the new requests (or 1,534,500)³ that were originally placed over the Internet or telephone. Staff estimates that clerical personnel will require approximately 10 minutes per request to input and process those redirected requests for a cumulative total of 255,750 clerical hours. [(1,534,500 x 10 minutes)/60 minutes per hour = 255,750 hours]

E. Instructions to Consumers

The Rule also requires that certain instructions be provided to consumers. *See* Rule sections 1022.136(b)(2)(iv)(A-B), 1022.137(a)(2)(iii)(A-B). Minimal associated time or cost is involved, however. Internet instructions to consumers are embedded in the centralized source website and do not require additional time or cost for the nationwide consumer reporting agencies. Similarly, for telephone requests, the automated phone systems provide the requisite instructions when consumers select certain options. Some consumers who request their credit reports by mail might additionally request printed instructions from the nationwide and nationwide specialty consumer reporting agencies. Staff estimates that there will be a total of 1,844,500 requests each year for free annual file disclosures by mail.⁴ Based on their knowledge of the industry, staff estimates that,

³ This figure reflects five percent of all requests, net of the estimated one percent of all requests expected to have initially been made by mail. That is, $0.05 \times (31,000,000 - 310,000) = 1,534,500$.

⁴ This figure includes both the estimated 1% of 31 million requests that will be made by mail each year (310,000), and the estimated 1,534,500 requests initially made over the Internet or telephone

of the predicted 1,844,500 mail requests, 10% (or 184,450) will request instructions by mail. If printed instructions are sent to each of these consumers by mail, requiring 10 minutes of clerical time per consumer, this will total 30,742 hours. [(184,450 instructions x 10 minutes)/60 minutes per hour = 30,742 hours]

F. Labor Costs

Labor costs are derived by applying hourly cost figures to the burden hours described above. Staff anticipates that processing of requests for annual file disclosures and instructions will be performed by clerical personnel, and estimates that the processing will require 338,159 hours at a cost of \$6,073,336. [(51,667 hours for handling initial mail request + 255,750 hours for handling requests redirected to mail + 30,742 hours for handling instructions mailed to consumers) x \$17.96 per hour.⁵]

As elaborated on above, staff estimates that a total of 14,560 labor hours will be needed to negotiate or renegotiate outsourced service contracts annually (or as conditions otherwise change) to increase internet (8,320 hours) and telephone (6,240 hours) capacity requirements for internet web services and the automated telephone call center. This will result in approximately \$1,048,174 per year in labor costs. [14,560 hours x \$71.99 per hour⁶] Thus, estimated cumulative labor will costs are \$7,121,510.

G. Net Burden for FTC: 176,360 hours and \$3,560,755 in associated labor costs.

that will be redirected to the mail process (see *supra* note 3).

⁵ See *Occupational Employment and Wages – May 2017*, Table 1, available at <https://www.bls.gov/news.release/ocwage.t01.htm> (Office and administrative support workers, general).

After halving the updated estimates to split the PRA burden with the CFPB regarding the Rule, the FTC's burden totals are 176,360 hours and \$3,560,755 in associated labor costs.

H. Estimated Capital and Other Non-Labor Costs

As in the previous PRA clearance analysis, FTC staff believes it is likely that consumer reporting agencies will use third-party contractors (instead of their own employees) to increase the capacity of their systems. Because of the way these contracts are typically established, these costs will likely be incurred on a continuing basis, and will be calculated based on the number of requests handled by the systems. Staff estimates that the total annual amount to be paid for services delivered under these contracts is \$11,355,300.⁷ After halving the updated estimates to split the PRA burden with the CFPB regarding the Rule, the FTC's burden total is \$5,677,650 in non-labor/capital costs.

Request for Comment

You can file a comment online or on paper. For the FTC 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 Reduction Act: FTC File No. P072108” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the

⁶ See *supra* notes 1 and 2.

⁷ This consists of an estimated \$7,588,800 for automated telephone cost (\$1.36 per request x 5.58

extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>.

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, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/regulationVsubpartNpra2> by following the instructions on the web-based form. When this Notice appears at <http://www.regulations.gov>, you also may file a comment through that Web site.

If you file your comment on paper, write “Paperwork Reduction Act: FTC File No. P072108” on your comment and on the envelope, and mail it 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, submit your paper comment to the Commission by courier or overnight service.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive

million requests) and an estimated \$3,766,500 (\$0.15 per request x 25.11 million requests) for

Office Building, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail are subject to delays due to heightened security precautions. Thus, comments can also be sent via email to Wendy_L._Liberante@omb.eop.gov.

Because your comment will be placed on the publicly accessible FTC Web site at <https://www.ftc.gov>, 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

Internet web service cost. Per unit cost, estimates are based on staff's knowledge of the industry.

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 public FTC Website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, 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 30 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>.

Heather Hipsley,

Deputy General Counsel.

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