



FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request;

Extension

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). This clearance expires on January 31, 2024.

DATES: Comments must be filed 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, PRA Comment, 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.

FOR FURTHER INFORMATION CONTACT: Jennifer Rimm, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, (202) 326-2277, jrimm@ftc.gov.

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: 1,454,850.

Estimated Annual Labor Costs: \$35,820,366.

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) 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,

¹ On December 4, 2015, Congress amended the GLBA as part of the Fixing America’s Surface Transportation Act (“FAST Act”). The FAST Act included a subsection titled Eliminate Privacy Notice Confusion (FAST Act, Pub. L. 114094, section 75001) that 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. On December 9, 2021, the Privacy Rule was amended at 16 CFR 313.5(e) to incorporate this exception. The amendments were effective January 10, 2022. 86 FR 70020 (Dec. 9, 2021).

titled Privacy of Consumer Financial Information (Regulation P), 12 CFR part 1016, and attributes to itself the burden for all motor vehicle dealers. *See* 12 U.S.C. 5519.

As required by section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), 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 Rule.

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 the Rule. FTC staff thus estimates that at least 80% of businesses covered by Regulation P that have continuing relationships with customers exceeding one year will not be required to issue annual notices because they do not make changes to their policies or share nonpublic information outside of the statutory exceptions. Finally, staff estimates that no more than 1% of the estimated 29,000 established-entity respondents would make additional changes to privacy policies at any time other than the occasion of the annual notice.

2. New entrant financial institutions

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	\$39.52 Professional/ Technical	\$2,292,160
Disseminating initial notices to new customers.	15	29,000	435,000	217,500	\$19.67 Clerical	\$4,278,225
Disseminating annual disclosure to pre-existing customers.	15	4,060	60,900	30,450	\$19.67 Clerical	\$598,952
	5	4,060	20,300	10,150	\$39.52 Professional/ Technical	\$401,128
Updating privacy policies and related disclosures.	7	290	2,030	1,015	\$19.67 Clerical	\$19,965
	3	290	870	435	\$39.52 Professional/ Technical	\$17,191
Totals:			635,100	317,550		\$7,607,621

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

² The estimate of respondents which are required to disseminate annual notices is based on the following assumptions: (1) 29,000 established respondents; (2) of those, approximately 70% maintain customer relationships exceeding one year (20,300), and no more than 20% of those (together, 4,060) make changes to their policies and share nonpublic information outside of the statutory exceptions, and therefore are required to provide annual notices under the Rule (this is consistent with the main text above that at least 80% of businesses covered by Regulation P that have continuing relationships with customers exceeding one year will not be required to issue annual notices because they do not make changes to their policies or share nonpublic information outside of the statutory exceptions); (3) and no more than 1% (290) of established respondents 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 U.S. Bureau of Labor Statistics Occupational Employment and Wages, May 2022, at <https://www.bls.gov/oes/tables.htm>.

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).

Activity	Hours per respondent	Approx. number of respondents	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	\$39.52 Professional/ Technical	\$197,600
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	1	500	500	250	\$19.67 Clerical	\$4,918
	2	500	1,000	500	\$39.52 Professional/ Technical	\$19,760
Disseminating initial disclosure (including opt-out notices).	15	500	7,500	3,750	\$19.67 Clerical	\$73,763
	10	500	5,000	2,500	\$39.52 Professional/ Technical	\$98,800
Totals			24,000	12,000		\$394,841

3. Established Motor Vehicle Dealers

FTC has sole authority over motor vehicle dealers subject to the Rule. Staff estimates that approximately 49,000 auto dealers are subject to the Rule's requirements, consisting of 47,000 established dealers and 2,000 new entrants annually during the renewal period. FTC staff provides the following burden estimates for established motor vehicle dealers:

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	47,000	188,000	\$39.52 Professional/ Technical	\$7,429,760
Disseminating initial notices to new	15	47,000	705,000	\$19.67 Clerical	\$13,867,350

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

⁶ Commission staff relies on industry estimates of the total number of motor vehicle dealers in the United States, based on Census data and Bureau of Labor Statistics data. Commission staff did not separately estimate the number of such dealers who may be covered by the Rule because they do not routinely extend credit to consumers directly without assigning the credit to unaffiliated third parties.

⁷ Staff calculated labor costs by applying appropriate hourly cost figures to the burden hours described above. See BLS Occupational Employment and Wages, May 2022, at <https://www.bls.gov/oes/tables.htm>.

customers.					
Disseminating annual disclosure.	15	6,580	98,700	\$19.67 Clerical	\$1,941,429
	5	6,580	32,900	\$39.52 Professional/ Technical	\$1,300,208
Updating privacy policies and related disclosures.	7	470	3,290	\$19.67 Clerical	\$64,714
	3	470	1,410	\$39.52 Professional/ Technical	\$55,723
Totals:			1,029,300		\$24,659,184

4. New Entrant Motor Vehicle Dealers

FTC staff provides the following burden estimates for 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	\$39.52 Professional/ Technical	\$1,580,800
Creating disclosure document or electronic disclosure (including initial, annual, and opt-out disclosures).	1	2,000	2,000	\$19.67 Clerical	\$39,340
	2	2,000	4,000	\$39.52 Professional/ Technical	\$158,080
Disseminating initial disclosure (including opt-out notices).	15	2,000	30,000	\$19.67 Clerical	\$590,100
	10	2,000	20,000	\$39.52 Professional/ Technical	\$790,400
Totals:			96,000		\$3,158,720

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.

Request for Comment:

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping 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.

For the FTC to consider a comment, we must receive it on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. 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.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write “Privacy Rule, PRA Comment, P085405,” 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. If possible, submit your paper comment to the Commission by overnight service.

Because your comment will become publicly available at <https://www.regulations.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 (1) be filed in paper form, (2) be clearly labeled “Confidential,” and (3) 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 publicly at *www.regulations.gov*, 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.