

**Supporting Statement for the  
Recordkeeping and Disclosure Requirements Associated  
with the Bureau's Regulation E (Electronic Fund Transfers)  
(FR E; OMB No. 7100-0200)**

**Summary**

The Board of Governors of the Federal Reserve System (Board), under authority delegated by the Office of Management and Budget (OMB), proposes to extend for three years, with revision, the Recordkeeping and Disclosure Requirements Associated with the Bureau of Consumer Financial Protection's (Bureau) Regulation E (Electronic Fund Transfers) (FR E; OMB No. 7100-0200). Since 2011, the Bureau has been responsible for issuing most of the Electronic Funds Transfer Act (EFTA)<sup>1</sup> regulations that apply to financial institutions and other entities (except for certain motor vehicle dealers), other than the EFTA provisions governing debit card interchange fees and routing of debit card transactions.<sup>2</sup> However, the Board continues to be responsible under the Paperwork Reduction Act (PRA) for implementing the information collections mandated by the Bureau's Regulation E for institutions that are supervised by the Board.<sup>3</sup> The PRA classifies as a "collection of information" the reporting, recordkeeping, or disclosure requirements of a regulation, such as the recordkeeping and disclosure requirements of Regulation E.<sup>4</sup>

Consistent with the Bureau's final rule amending its Regulation E, effective April 1, 2019,<sup>5</sup> the Board proposes to revise the FR E to account for new requirements related to prepaid accounts. The Bureau's final rule requires pre-acquisition disclosures for prepaid accounts and modifies general Regulation E requirements governing disclosures, limited liability and error resolution, and periodic statements as applied to prepaid accounts. In addition, the rule adds requirements regarding the posting of prepaid account agreements.

The Board accounts for the paperwork burden associated with the Bureau's Regulation E only for Board-supervised institutions.<sup>6</sup> For those institutions, the current annual paperwork burden for the FR E is estimated to be 210,925 hours. The proposed revisions

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<sup>1</sup> 15 U.S.C. 1693 *et seq.* The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for most provisions of the EFTA to the Bureau except for certain motor vehicle dealers that are excluded from the Bureau's authority, which remain subject to the Board's Regulation E. See section 1029 of the Dodd-Frank Act, Pub. L. 111-203, 124 Stat. 1376 (2010), 12 U.S.C. 5512, 5519, 5581. The Bureau's Regulation E is published at 12 CFR part 1005 and the Board's Regulation E is published at 12 CFR part 205.

<sup>2</sup> Section 920 of the EFTA regulates debit card interchange fees and routing of debit card transactions and is implemented by the Federal Reserve's Regulation II, 12 CFR part 235.

<sup>3</sup> For purposes of the Bureau's Regulation E, Board-supervised institution include state member banks (SMBs), SMB subsidiaries, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-605a; 611-631). The Bureau supervises, among other institutions, insured depository institutions with over \$10 billion in assets and their affiliates (including affiliates that are themselves depository institutions regardless of asset size and subsidiaries of such affiliates).

<sup>4</sup> 44 U.S.C. 3501 *et seq.*

<sup>5</sup> 83 FR 6364 (Feb. 13, 2018).

<sup>6</sup> Other federal agencies account for the paperwork burden that Regulation E imposes on the institutions for which they have supervisory authority.

would result in an annual net increase in paperwork burden of 3,644 hours.

## **Background and Justification**

The EFTA requires consumers be provided meaningful disclosures about the basic terms, costs, and rights relating to electronic fund transfer (EFT) services involving a consumer's account. The disclosures required by the EFTA are triggered by specific events. The disclosures inform consumers, for example, about the terms of the EFT service, activity on the account, potential liability for unauthorized transfers, and the process for resolving errors.

On July 21, 2011, rulemaking authority for the EFTA, except section 920, was transferred from the Board to the Bureau under the Dodd-Frank Act for entities other than certain motor vehicle dealers.<sup>7</sup> In December 2011, the Bureau published an interim final rule establishing its own Regulation E implementing the EFTA at 12 CFR part 1005, which substantially duplicated the Board's Regulation E.<sup>8</sup> The Bureau adopted a final rule in April 2016.<sup>9</sup>

In November 2016, the Bureau adopted a final rule amending Regulation E to include comprehensive consumer protections for prepaid accounts.<sup>10</sup> The Bureau subsequently issued technical amendments to this rule and extended the effective date of the rule until April 1, 2019.<sup>11</sup>

The Bureau's Regulation E applies to all financial institutions. In addition, certain provisions in Regulation E apply to entities that are not financial institutions, including: service providers or automated teller machine (ATM) operators; merchants and other payees that engage in electronic check conversion (ECK) transactions, the electronic collection of returned item fees, or preauthorized transfers; issuers and sellers of gift cards and gift certificates; and remittance transfer providers. To ease burden and cost of complying with the disclosure requirements of Regulation E (particularly for small entities), model disclosure clauses and forms are appended to Regulation E. Evidence of compliance with Regulation E must be retained for no less than two years from the date the required disclosure or action. As described above, the Board accounts for the paperwork burden associated with the Bureau's Regulation E only for Board-supervised institutions.

## **Description of Information Collection**

The recordkeeping and disclosure requirements associated with Regulation E are described below. No other federal law mandates these disclosures, although some states may have similar requirements.

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<sup>7</sup> See *infra* n. 1 & 2.

<sup>8</sup> See 76 FR 81020 (Dec. 27, 2011).

<sup>9</sup> See 81 FR 25323 (April 28, 2016).

<sup>10</sup> See 81 FR 83934 (Nov. 22, 2016).

<sup>11</sup> See 81 FR 83 FR 6364 (Feb. 13, 2018).

### **Initial Disclosures (Sections 1005.7(b) and 1005.18(c)(1))**

Institutions that offer EFT services must provide written disclosures to a consumer who contracts for those services. The purpose of these disclosures is to provide consumers with information about the terms of the EFT services offered at the time of the initial agreement, and subsequently, in the event of changes in certain required disclosure terms. Initial disclosures must include (as applicable): information about the consumer's liability for unauthorized transfers; the telephone number and address of the person to be notified when the consumer believes an unauthorized EFT has been or may be made; the financial institution's business days; the types of transfers available and any limitations on the frequency and dollar amount of transfers; any fees imposed by the financial institution for EFTs or the right to make EFTs; a summary of the consumer's right to documentation of transfers and to stop payment of preauthorized transfers; information about the financial institution's liability to the consumer for failure to make or stop certain transfers; the circumstances under which the financial institution may provide information concerning the consumer's account to third parties; and information on resolving errors on the account. The initial disclosures must be provided when a consumer contracts for EFT services or before the first EFT involving the account is made.

For financial institutions that offer payroll card accounts and make such accounts' balance and transaction information readily available to the consumer, the initial disclosures must contain: a telephone number that the consumer may call to obtain the account balance; the means by which the consumer can obtain an electronic account history, such as the address of an Internet website; and a summary of the consumer's right to receive a written account history upon request (in place of the summary of the right to receive a periodic statement required by section 1005.7(b)(6)), including a telephone number to call to request a history. In addition, the disclosures must include an error resolution notice substantially similar to the notice contained in section A-7(b) in appendix A of Regulation E.

### **Change-In-Terms (Section 1005.8(a))**

A change-in-terms notice is required if the change would result in increased liability for the consumer, increased fees, fewer types of available EFTs, or stricter limitations on the frequency or dollar amounts of transfers. A change-in-terms notice must be mailed or delivered to the consumer at least 21 days before the effective date of the change in term or condition.

### **Periodic Statements (Section 1005.9(b) and 1005.18(b))**

Institutions are required to send a periodic statement for each monthly cycle in which an EFT has occurred and at least quarterly if no transfer has occurred. The disclosures must include: transaction information for EFTs occurring during the statement period; the account number; the amount of any fees assessed during the statement period for EFTs, the right to make transfers, or account maintenance; the balance in the account at the beginning and close of the statement period; the address and telephone number for error inquiries; and a telephone number for verification of preauthorized transfers to the consumer's account if the institution uses that option. Modified requirements apply to passbook and certain other types of accounts.

Also, as an alternative to providing periodic statements for payroll card accounts, a financial institution may make account transaction information available to the consumer by telephone, electronically, and in writing upon the consumer's request.

Because the periodic statements required under Regulation E are typically included with monthly checking and savings account statements provided under the Truth in Savings Act (Regulation DD), the burden associated with this requirement for Board-supervised entities is accounted for in the Disclosure Requirements Associated with the Bureau's Regulation DD (Truth in Savings) (FR DD; OMB No. 7100-0271), and is therefore not accounted for in the Regulation E burden estimate. The burden associated with this requirement for financial institutions that are not subject to Regulation DD is addressed in the Estimate of Respondent Burden section of this proposal.

### **Error Resolution Notice and Procedures for Resolving Errors (Sections 1005.8(b) and 1005.11)**

Financial institutions must notify consumers about their rights and responsibilities in connection with errors involving EFTs by providing either a complete statement of error resolution rights each year or a shorter error resolution rights summary on or with each periodic statement. Error resolution rights summaries are typically included with monthly checking and savings account statements provided under Regulation DD, therefore the Regulation E burden associated with this requirement for entities subject to the Board's supervisory authority is accounted for in the estimate of the paperwork burden under Regulation DD.

When a consumer provides notice of an error for purposes of Regulation E, the institution must investigate and determine whether an error occurred.<sup>12</sup> Generally, if the institution is unable to complete its investigation of the error within 10 business days, it may take up to 45 calendar days provided it provisionally credits the disputed amount to the consumer's account within the 10 business days, notifies the consumer, orally or in writing, of the provisional crediting, and gives the consumer full use of the funds during the investigation.<sup>13</sup> The institution must correct the error, if any, report the results to the consumer, and notify the consumer whether the provisional credit has been made final. A correction notice may be included in the periodic statement if it is clearly identified, and the statement is mailed or delivered within the applicable time limit. For payroll card accounts where the financial institution provides alternative disclosures to regular periodic statements, the timing requirements for the error resolution procedures are modified.<sup>14</sup>

### **Disclosures Related to ECK Transactions and Collecting Returned Item Fees Electronically (Sections 1005.3(b)(2) and (3))**

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<sup>12</sup> A consumer's potential liability for an unauthorized transfer depends on when the consumer notifies the financial institution of the loss or theft of an access device or of the unauthorized transfer. See 12 CFR 1005.6. These benchmarks are modified for financial institutions providing alternative disclosures to periodic statements for payroll card accounts. See 12 CFR 1005.18(c).

<sup>13</sup> The institution need not provisionally credit the consumer's account and take up to 45 days to investigate the error if the institution requests but does not receive written confirmation within 10 business days of an oral notice of error.

<sup>14</sup> 12 CFR 1005.18(c).

A merchant or other payee who initiates an ECK transaction must provide a notice that the transaction will or may be processed as an EFT. For point-of-sale transfers, the notice must be posted in a prominent and conspicuous location, and a copy of the notice must be provided to the consumer at the time of the transaction. A person initiating an EFT to collect a fee for the return of an EFT or a check that is unpaid must provide notice to the consumer stating that the person may electronically collect the fee and must disclose the dollar amount of the fee. If the fee may vary due to the amount of the transaction or due to other factors, then an explanation of how the fee will be determined must be provided instead of the dollar amount. For returned item fees that may be collected electronically in connection with a point-of-sale transaction, the notice must be posted in a prominent and conspicuous location. A copy of the notice must be provided to the consumer at the time of the transaction or mailed to the consumer's address as soon as reasonably practicable after the person initiates the EFT to collect the fee. The Board previously estimated one-time burden for implementing the disclosures and believes that, on a continuing basis, there would be no additional increase in burden.

### **Electronic Terminal Receipts (Sections 1005.9(a))**

An institution offering an EFT service must provide a receipt each time a consumer initiates an EFT of more than \$15 at an electronic terminal (for example, an ATM). Terminal receipts can provide documentation and proof of the transfer in the event of a later dispute. The terminal receipt, which must be provided at the time of the transfer, must include the amount, date, and type of transfer, as well as other information identifying the transaction. Because these disclosures are machine-generated and do not involve an employee of the institution, for purposes of the PRA, burden associated with this requirement is negligible.

### **Preauthorized Transfers (Section 1005.10)**

A preauthorized transfer is an EFT authorized in advance to recur at substantially regular intervals. Preauthorized transfers from a consumer's account may only be authorized by a writing signed or similarly authenticated by the consumer.

For preauthorized transfers to the consumer's account, the institution must provide oral or written notice of the transfer (positive notice) or that the transfer did not occur (negative notice). In lieu of providing positive or negative notice, the institution may, and typically does, provide a readily available telephone number that the consumer can call to verify receipt of the deposit. If positive notice is provided to the consumer by the payor, as in most cases, the financial institution need not provide notice. Therefore, the burden of this requirement is negligible.

For preauthorized transfers from the consumer's account, if a payment will vary in amount from the previous transfer under the same authorization or from the preauthorized amount, either the institution or the payee must provide written notice to the consumer of the amount and date of the transfer. Alternatively, the institution or the payee may give the consumer the option of receiving notice only when a transfer falls outside a specified range or

only when a transfer differs from the most recent transfer by more than an agreed-upon amount. Because in the vast majority of instances the payee, rather than the bank, satisfies this obligation, the burden on banks is negligible.

#### **Disclosures at ATMs (Section 1005.16(c))**

An ATM operator that imposes a fee on a consumer for initiating an EFT or balance inquiry must provide screen or paper notice that an ATM fee will be imposed and the amount of the fee before the consumer is committed to paying the fee. Because these disclosures are machine-generated and involvement by an employee of the institution is minimal, for purposes of the PRA, burden associated with this requirement is negligible.

#### **Overdraft Services Opt-In Requirement (Section 1005.17(b))**

In general, a financial institution shall not assess an overdraft fee for paying ATM and one-time debit card transactions that overdraw a consumer's account, unless the consumer affirmatively consents, or opts in, to the institution's payment of overdrafts for these transactions, pursuant to an opt-in notice that is substantially similar to Model Form A-9. The Board took one-time burden when this section was implemented and staff believe that, on a continuing basis, there is no additional ongoing burden as the disclosure was sufficiently accounted for once incorporated into the current initial account disclosure section 1005.7(b).

#### **Exclusions From Gift Card and Gift Certificate Coverage (Section 1005.20(b)(2))**

Section 1005.20(b)(2) implements exclusions from coverage under the gift card requirements in section 1005.20, including an exclusion for cards, codes, or other devices that are reloadable and not marketed or labeled as a gift card or gift certificate. As noted in comment 4.i. to section 1005.20(b)(2), institutions will qualify for this exclusion so long as they establish and maintain policies and procedures reasonably designed to avoid the marketing of a prepaid card not otherwise subject to the rule, such as a general-purpose reloadable card, as a gift card or gift certificate.

#### **Prohibition on Sale of Gift Certificates or Gift Cards with Expiration Dates (Section 1005.20(e)(1))**

Institutions involved in issuing and selling gift certificates or cards with an expiration date are required to adopt policies and procedures to provide consumers with a reasonable opportunity to purchase a certificate or card with at least five years remaining until the certificate or card expiration date.

#### **Disclosures Related to Loyalty, Award, or Promotional Cards (Section 1005.20(a)(4)(iii))**

In order to qualify for an exclusion from coverage under the gift card requirements in section 1005.20, section 1005.20(a)(4)(iii)(A) requires a loyalty, award, or promotional gift card to state on the card, code, or other device itself that it is issued for loyalty, award, or

promotional purposes. This statement must be on the front of the card, code, or other device to enable consumers to easily identify the type of card and avoid potential consumer confusion arising from the fact that a loyalty, award, or promotional gift card may otherwise look identical to a gift card that a consumer may purchase directly from a merchant. In addition, the expiration date for the underlying funds must be stated on the front of a loyalty, award, or promotional gift card because such cards typically have shorter expiration dates than other certificates or cards subject to the rule. See section 1005.20(a)(4)(iii)(B). Where the card and funds have the same expiration date, a single disclosure regarding the expiration date satisfies the requirement in section 1005.20(a)(4)(iii)(B). The Board previously estimated one-time burden for implementing the disclosures and staff believe that, on a continuing basis, there would be no additional increase in burden.

#### **Disclosures Related to Gift Certificate or Gift Card Fees and Expiration (Sections 1005.20(d)(2), 1005.20(e)(3), and 1005.20(f)(1))**

Certain disclosures must be stated on the certificate or card, as applicable. If there is a dormancy, inactivity, or service fee, Section 1005.20(d)(2) requires: (1) the amount of any dormancy, inactivity, or service fee that may be charged; (2) how often such fee may be assessed; and (3) that such fee may be assessed for inactivity. In addition, if there is an expiration date for the certificate or card, Section 1005.20(e)(3) requires: (1) the terms of expiration of the underlying funds or, if the underlying funds do not expire, that fact; (2) a toll-free telephone number and, if one is maintained, a website that a consumer may use to obtain a replacement certificate or card after the certificate or card expires, if the underlying funds may be available; and (3) a statement that the certificate or card expires, but the underlying funds either do not expire or expire later than the certificate or card, and that the consumer may contact the issuer for a replacement card.

For each type of fee that may be imposed in connection with the certificate or card (other than a dormancy, inactivity, or service fee subject to the disclosure requirements under Section 1005.20(d)(2)), Section 1005.20(f)(1) requires the following information be provided on or with the certificate or card: (1) the type of fee; (2) the amount of the fee (or an explanation of how the fee will be determined); and (3) the conditions under which the fee may be imposed. Finally, Section 1005.20(f)(2) requires that a toll-free telephone number and, if one is maintained, a website, that a consumer may use to obtain information about fees must be disclosed on the certificate or card. This toll-free telephone number and website may be the same as the one required to be disclosed under Section 1005.20(e)(3) for a consumer to use to obtain a replacement certificate or card. Board staff previously estimated one-time burden that took into account the burden for implementing these disclosures and staff believe that, on a continuing basis, there would be no additional increase in burden.

#### **Disclosures for Remittance Transfers (Section 1005.31)**

A remittance transfer provider must provide written prepayment disclosures to a consumer sender who requests a remittance transfer to a designated recipient abroad. The purpose of these disclosures is to provide consumers, when they request a transfer and before they make a payment, with information about taxes and fees they will incur and the total

amount the designated recipient will receive. Prepayment disclosures must include: the transfer amount, fees imposed and taxes collected by the provider, the exchange rate, covered third-party fees, the total amount that will be received by the designated recipient, and a statement that non-covered third-party fees or taxes collected by a person other than the provider may apply to the remittance transfer.

A remittance transfer provider must also provide a written receipt to a sender when payment is made. In addition to the information required in the prepayment disclosure, a receipt must also include the date in the foreign country when funds will be available to the designated recipient, the name and, if provided, the telephone number/address of the designated recipient, information on resolving errors and the right to cancel the transaction, contact information for the remittance transfer provider, a statement that the sender can contact the State agency that licenses or charters the remittance transfer provider and the Bureau, and the transfer date if the transfer has been scheduled in advance.

In lieu of a separate prepayment disclosure and receipt, a remittance transfer provider may provide a combined disclosure when a sender requests a remittance transfer, prior to making payment. If a remittance transfer provider chooses to provide a combined disclosure, the provider must provide the consumer with proof of payment when payment is made.

Upon a sender's request, a remittance transfer provider must promptly provide a long form error resolution and cancellation notice that provides more detail on the sender's error resolution and cancellation rights.

Certain fee, tax, and exchange rate disclosures in the prepayment and receipt or the combined disclosure may be estimated in certain circumstances pursuant to section 1005.32.

### **Procedures for Resolving Errors for Remittance Transfers (Section 1005.33)**

When a consumer sender provides notice of an error within 180 days after the date the funds are available to the designated recipient, the remittance transfer provider must investigate and determine whether an error occurred within 90 days of receiving the notice of error. The provider shall report the result to the sender, including notice of any remedies available for correcting any error that the provider has determined has occurred, within three business days after completing its investigation. If the remittance transfer provider has determined that no error or a different error has occurred, the provider must provide a written explanation of the provider's finding and note the sender's right to request the documents on which the provider relied on in making its determination. Upon a sender's request, the provider shall promptly provide copies of the documents on which the provider relied in making its error determination. The remittance transfer provider's policies and procedures shall address the retention of documentation related to error investigations, and providers are subject to the record retention requirements under section 1005.13.

### **Remittance Transfers Scheduled Before the Date of Transfer (Section 1005.36)**

Remittance transfers are often sent through an agent of the remittance transfer provider.



For a one-time remittance transfer scheduled five or more business days before the date of transfer or for the first in a series of preauthorized remittance transfers, a remittance transfer provider must provide the prepayment disclosure and receipt required in sections 1005.31(b)(1) and (2) or the combined disclosure described in section 1005.31(b)(3) as well as an additional receipt if any of the previously provided disclosures contain estimates as permitted under section 1005.32, which must be mailed or delivered no later than one business day after the date of the transfer. If the transfer involves the transfer of funds from the sender's account held by the provider, the additional receipt can be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

For subsequent transfers in a series of preauthorized remittance transfers, if any of the information on the most recent receipt provided to the consumer is no longer accurate (other than the dates or because the disclosure contained estimates, as permitted under section 1005.32), the provider must mail or deliver an updated receipt within a reasonable time prior to the scheduled date of the next transfer. Unless that updated receipt did not contain any estimates pursuant to section 1005.32, the provider must mail or deliver to the sender a post-transfer receipt no later than one business day after the date of the transfer. If the transfer involves the transfer of funds from the sender's account held by the provider, the post-transfer receipt can be provided on or with the next periodic statement for that account, or within 30 days after the date of the transfer if a periodic statement is not provided.

In addition, for subsequent transfers in a series of preauthorized remittance transfers, a provider must disclose to the sender the date the provider will make the subsequent transfer, a statement about the cancellation rights, and contact information for the remittance transfer provider. If the future date or dates of transfer are described as occurring in regular periodic intervals (e.g., the 15<sup>th</sup> of every month), the provider must disclose any future date or dates of transfer that do not conform to the described interval. These disclosures must be received by the sender not more than 12 months and no less than five business days prior to the date of any subsequent transfer to which it pertains and may be provided in a separate disclosure or as part of one of the other required disclosures. For any subsequent preauthorized remittance transfer that is four or fewer business days after the date when payment is made, these disclosures must be provided on or with the receipt.

### **Electronic Communication**

A consumer may agree to receive from a financial institution in electronic form any disclosure that Regulation E requires be provided in writing, subject to the consent and other requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act), so long as the disclosure complies with the regulation in all other respects. Any reference to a mandatory written disclosure does not exclude the possibility that the consumer may agree to receive the disclosure in electronic form.

### *Proposed Revisions*

**Associated with Rules on Providing Pre-Acquisition Disclosures (Section 1005.18(b)), Periodic Statement Alternative (Section 1005.18(c)), Initial Disclosures (Sections 1005.18(d)(1)(i) and 1005.18(f)(1)), Error Resolution Notice and Procedures for Resolving Errors (Sections 1005.18(d)(1)(ii), 1005.18(d)(2), and 1005.18(e)), Change-In-Terms Notice (Section 1005.18(f)(2)), Disclosures on Device or Entry Point (Section 1005.18(f)(3)), and Internet Posting and Submission of Prepaid Account Agreements (Section 1005.19)**

Beginning April 1, 2019, entities subject to the Bureau's Regulation E will be required to comply with the following recordkeeping and disclosure requirements related to prepaid accounts in accordance with the Bureau's new final rule.

#### **Pre-Acquisition Disclosures (Section 1005.18(b))**

Before a consumer acquires a prepaid account, a financial institution would be required to provide a consumer with a short form disclosure and a long form disclosure. The short form disclosure would be required to include: certain fee information, including any periodic fee, per purchase fee, ATM withdrawal fee, cash reload fee, ATM balance inquiry fee, customer service fee, and inactivity fee (collectively, "static fees"); the number of fee types in addition to the static fees; two additional fee types that generated the highest revenue from consumers during the previous 24 months; statements regarding linked overdraft credit features, registration, and FDIC/NCUA insurance; a reference to the Bureau's website containing information on prepaid accounts; and information on where the consumer can find the long form disclosure. For payroll card accounts, the short form disclosure would be required to include a statement regarding options to receive wages or salary from the employer. For government benefit accounts, the short form disclosure would be required to include a statement regarding options to receive government benefits. Furthermore, the Bureau requires a financial institution to disclose, in conjunction with the short form disclosure, its name, the name of the prepaid account program, any purchase price for the prepaid account, and any fee for activating the prepaid account.

The long form disclosure would be required to include: a title, including the name of the prepaid account program; information about all fees and the conditions under which they may be imposed; a statement regarding registration and FDIC/NCUA insurance; a statement regarding linked overdraft credit features; a statement containing the financial institution's contact information; a reference to the Bureau's website containing information on prepaid accounts; and a reference to the Bureau's website and telephone number to submit complaints.

Generally, these disclosures would be required to be provided before a consumer acquires a prepaid account, though there are certain exceptions. For prepaid accounts sold at retail locations, however, a financial institution may provide the long form disclosure after acquisition if the short form disclosure contains information enabling the consumer to access the long form disclosure by telephone or on a website and other requirements are met. A similar accommodation is made for prepaid accounts acquired orally by telephone.

The pre-acquisition disclosures would be required to follow specific formatting rules, and, for the short form disclosures, be substantially similar to model forms. If the financial institution uses a foreign language in connection with a consumer's acquisition of a prepaid account, a financial institution would generally be required to provide the pre-acquisition disclosures in that foreign language.

#### **Periodic Statement Alternative (Section 1005.18(c))**

Financial institutions will be required to provide periodic statements for prepaid accounts either by providing a periodic statement that complies with section 1005.9(b) or, as an alternative, by making transaction information available to the consumer by telephone, electronically, and in writing upon the consumer's request pursuant to section 1005.18(c).

#### **Initial Disclosures (Sections 1005.18(d)(1)(i) and 1005.18(f)(1))**

Financial institutions will be required to include in the initial disclosure required by section 1005.7 all the information required to be disclosed in the pre-acquisition long form disclosure. If a financial institution chooses to provide the alternative disclosures to regular periodic statement, it must modify some of the disclosures included in the initial disclosures.

The Bureau determined and the Board agrees that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2). Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

#### **Error Resolution Notice and Procedures for Resolving Errors (Sections 1005.18(d)(1)(ii), 1005.18(d)(2), and 1005.18(e))**

Prepaid accounts will be required to comply with the limited liability error resolution requirements applicable to other accounts subject to Regulation E. For prepaid accounts where the financial institution provides alternative disclosures to regular periodic statements, the timing requirements for the error resolution procedures are modified. For prepaid accounts that are not payroll card accounts or government benefit accounts, a financial institution will generally not be required to comply with the liability limits for unauthorized transactions and error resolution requirements for any prepaid account for which it has not successfully completed its consumer identification and verification process.

A notice concerning error resolution, provided with the initial disclosures and substantially similar to the Bureau's model form for prepaid accounts, will be required to be provided in place of the notice required by section 1005.7(b)(10). Alternatively, for prepaid account programs for which the financial institution does not have a consumer identification and verification process, the financial institution will be required to describe its error resolution process and limitations on consumers' liability for unauthorized transfers or, if none, state that there are no such protections.

An annual error resolution notice substantially similar to the model form for prepaid accounts would be required to be provided in place of the notice required by section 1005.8(b). Alternatively, a financial institution may include on or with each electronic and written account

transaction history, a notice substantially similar to the abbreviated notice for periodic statements contained in the model forms, modified as necessary to reflect the error resolution procedures the financial institution is required to follow.

The Bureau determined and the Board agrees that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2). Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

#### **Change-In-Terms Notice (Section 1005.18(f)(2))**

The change-in-terms notice provisions in section 1005.8(a) apply to any change in a term or condition that is required to be disclosed under 1005.7 or 1005.18(f)(1) for a prepaid account.

The Board believes that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2). Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

#### **Disclosures on Device or Entry Point (Section 1005.18(f)(3))**

Financial institutions will be required to disclose on the prepaid account access device the name of the financial institution and the website and telephone number a consumer can use to contact the financial institution about the prepaid account. If a financial institution does not provide a physical access device in connection with a prepaid account, the disclosure will be required to appear on the website, mobile application, or other entry point a consumer must visit to access the prepaid account electronically.

The Bureau determined and the Board agrees that financial institutions already engage in these activities as usual and customary activities, as defined under 5 CFR 1320.3(b)(2). Therefore, under 5 CFR 1320.3(b)(2), there is no additional burden for these provisions.

#### **Internet Posting and Submission of Prepaid Account Agreements (Section 1005.19)**

Prepaid account issuers will generally be required to submit to the Bureau new and amended prepaid account agreements and notification of withdrawn agreements no later than 30 days after the issuer offers, amends, or ceases to offer the agreement. The rule will provide a *de minimis* exception and a limited product testing exception to this requirement.

If an issuer is required to submit a prepaid account agreement to the Bureau and the prepaid account agreement is offered to the general public, the issuer will also be required to post the account agreement in a prominent and readily accessible location on its website. If a prepaid account agreement is not posted on the issuer's website, the issuer must provide a consumer with a copy of the consumer's prepaid account agreement no later than five business days after the issuer receives the consumer's request for the agreement. The consumer must be able to request the agreement by phone.

## Respondent Panel

The FR E panel comprises the following types of institutions, except those that are supervised by the Bureau: state member banks (SMBs), their subsidiaries, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a; 611-631). The Bureau supervises, among other institutions, insured depository institutions with over \$10 billion in assets and their affiliates (including affiliates that are themselves depository institutions regardless of asset size and subsidiaries of such affiliates).

## **Time Schedule for Information Collection**

Disclosure requirements associated with Regulation E are triggered by specific events, and disclosures must be provided to consumers within the time periods established by the law and regulation. Disclosures pertaining to a particular transaction or consumer account are not publicly available.

## **Legal Status**

Section 904 of the EFTA (12 U.S.C. 1693b) authorizes the Bureau to issue regulations to carry out the purposes of the EFTA, which establishes the basic rights, liabilities, and responsibilities of consumers who use EFT and remittance transfer services and of financial institutions or other persons that offer these services. The Bureau's Regulation E, 12 CFR Part 1005, implements the EFTA. An institution's recordkeeping and disclosure obligations under Regulation E are mandatory. Because the Board does not collect any information pursuant to the Bureau's Regulation E, no issue of confidentiality normally arises. In the event the Board were to obtain information regarding consumer EFT transactions during the course of an examination, such information would be kept confidential pursuant to section (b)(8) of the Freedom of Information Act (5 U.S.C. 522 (b)(8)).

## **Consultation Outside the Agency**

The Board consulted with Bureau staff regarding the estimated burden of the FR E.

## **Public Comments**

On April 30, 2019, the Board published a notice in the *Federal Register* (84 FR 18286) requesting public comment for 60 days on the extension, with revision, of the FR E. The comment period for this notice expires on July 1, 2019.

## **Estimate of Respondent Burden**

As shown in the table below, the current total annual burden for the FR E is estimated to be 210,925 hours, and with proposed revisions is estimated to increase to 214,569 hours. The

proposed revisions would result in a net increase in burden of 3,644 hours.

There is no reporting requirement associated with Regulation E. Moreover, no burden for receipts or disclosures related to preauthorized transfers is shown below because that burden is believed to be negligible. Receipts provided at electronic terminals are handled entirely by machine. For preauthorized transfers to a consumer's account, banks ordinarily provide a readily available telephone number that the consumer can call to verify receipt of the deposit. Finally, for preauthorized transfers from a consumer's account, the payee, rather than the bank, ordinarily discloses amounts to be transferred to the consumer. This information collection represents two percent of the Board's total paperwork burden.

<b>FR E</b>	<i>Estimated number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<b>Current</b>				
<b>Recordkeeping</b>				
Section 1005.20(b)(2)				
Gift card <u>exclusion</u> policies and procedures	970	1	8	7,760
Section 1005.20(e)(1)				
Gift card policy and procedures	970	1	8	7,760
Section 1005.33(g)				
Transmitter error resolution standards and recordkeeping requirements	970	1	8	7,760
Section 1005.35				
Acts of agents	970	1	8	7,760
<b>Disclosure</b>				
Sections 1005.7(b) and 1005.18(c)(1)				
Initial disclosures	970	250	0.03	7,275
Section 1005.8(a)				
Change-in-terms	970	340	0.02	6,596
Section 1005.9(b)				
Periodic statements	71	12	7	5,964
Section 1005.8(b) and 1005.11				
Error resolution	970	30	0.5	14,550
Section 1005.31				
Remittance transfer disclosures	970	12	8	93,120
Section 1005.33(c)(1)				
Time limits and extent of investigation	970	12	4.5	52,380
<i>Total</i>				210,925
<b>Proposed<sup>15</sup></b>				

<sup>15</sup> Of these respondents, the number of small entities, as defined by the Small Business Administration (i.e., entities

<b>Recordkeeping</b>				
Section 1005.20(b)(2)				
Gift card <u>exclusion</u> policies and procedures	970	1	8	7,760
Section 1005.20(e)(1)				
Gift card policy and procedures	970	1	8	7,760
Section 1005.33(g)				
Transmitter error resolution standards and recordkeeping requirements	970	1	8	7,760
Section 1005.35				
Acts of agents	970	1	8	7,760
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Section 1005.31				
Remittance transfer disclosures	970	12	8	93,120
Section 1005.33(c)(1)				
Time limits and extent of investigation	970	12	4.5	52,380
Sections 1005.18(b)(2) and 1005.15(c)				
Pre-acquisition disclosures (short form disclosure) – one time	5	9.57	40	1,914
Sections 1005.18(b)(4) and 1005.15(c)				
Pre-acquisition disclosures (long form disclosure) – one time	5	9.57	8	383
Sections 1005.18(c)(5) and 1005.15(d)				
Periodic statement alternative – one time	5	9.57	24	1,148
Section 1005.19(b)	6	1	1	6

with less than \$550 million in total assets) [www.sba.gov/content/small-business-size-standards](http://www.sba.gov/content/small-business-size-standards), for each category of recordkeeping and disclosure is as follows: 612 entities for Gift card exclusion policies and procedures, Gift card policy and procedures, Transmitter error resolution standards and recordkeeping requirements, Acts of agents, Initial disclosures, Change in terms, Error resolution, Remittance transfer disclosures, and Time limits and extent of investigation; 65 entities for Periodic statement; and 1 entity for Short form disclosure – one time, Long form disclosure – one time, Access to prepaid account information – one time, Submission of agreements – one time, Short form disclosure – ongoing and Submission of agreements – ongoing.

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Internet posting and submission of prepaid account agreements – one time Section 1005.18(b)(2)(ix) Pre-acquisition disclosures (short form disclosure) -- ongoing	5	9.57	4	191
Section 1005.19(b) Internet posting and submission of prepaid account agreements -- ongoing	6	5	0.08	2
<i>Total</i>				214,569
<i>Net change</i>				3,644

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The current estimated total annual cost to the public for this collection of information is \$11,822,346 and with proposed revisions would increase to \$12,026,592.<sup>16</sup>

### **Sensitive Questions**

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

### **Estimate of Cost to the Federal Reserve System**

The cost to the Federal Reserve System is negligible.

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<sup>16</sup> Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$18, 45% Financial Managers at \$69, 15% Lawyers at \$68, and 10% Chief Executives at \$94). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages May 2017, published March 30, 2018 [www.bls.gov/news.release/ocwage.t01.htm](http://www.bls.gov/news.release/ocwage.t01.htm). Occupations are defined using the BLS Occupational Classification System, [www.bls.gov/soc/](http://www.bls.gov/soc/).