

**Supporting Statement for the
Disclosure Requirements Associated with
Regulation V (Fair Credit Reporting) (OMB No. 7100-0308)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision,¹ the disclosure requirements associated with Regulation V, which implements the Fair Credit Reporting Act (FCRA) (OMB No. 7100-0308).² The Board is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies disclosure requirements of a regulation as “required information collections.”³ On September 6, 2007, the Federal Reserve published a notice in the *Federal Register* (72 FR 51228) requesting public comment for 60 days on the disclosure requirements associated with Regulation V. The comment period for this notice expires on November 5, 2007.⁴

Financial institutions that (1) extend credit and regularly and in the ordinary course of business furnish information to a nationwide consumer reporting agency, and (2) furnish negative information to such an agency regarding credit extended to a customer must provide a clear and conspicuous notice to the customer, in writing, about furnishing this negative information.⁵ The Federal Reserve estimates that approximately 30,000 financial institutions furnish information to consumer reporting agencies per year. The annual paperwork burden for furnishing these disclosures is estimated to be 7,500 hours.

Background and Justification

On December 4, 2003, the President signed into law the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), which amends the FCRA. In general, the FACT Act enhances the ability of consumers to combat identity theft, increases the accuracy of consumer reports, and allows consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. The FACT Act also restricts the use and disclosure of sensitive medical information. To bolster efforts to improve financial literacy among consumers, the FACT Act creates a new Financial Literacy and Education Commission empowered to take appropriate actions to improve the financial literacy programs, education programs, grants, and materials of the Federal Government. Lastly, to promote increasingly efficient national credit markets, the FACT Act establishes uniform national standards in key areas of regulation.

¹ The proposed information collections associated with the following notice of proposed rulemakings: Fair Credit Reporting Affiliate Marketing Regulations (Docket No R1203) published in the *Federal Register* July 15, 2004, and Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003 (Docket No R1255) published in the *Federal Register* July 18, 2006, will be assigned OMB No. 7100-0308 once the rules have been finalized during the 4th quarter of 2007.

² FCRA was enacted in 1970 and is codified at 15 U.S.C. § 1681 et seq. Regulation V is located at 12 C.F.R. Part 222.

³ 44 U.S.C. § 3501 *et seq.*

⁴ The collection of information under Regulation V is assigned OMB No. 7100-0308 for purposes of the PRA.

⁵ Section 217 of the FACT Act defines the term “negative information” to mean information concerning a customer’s delinquencies, late payments, insolvency, or any form of default.

In the final rule (69 FR 33281, June 15, 2004) the Federal Reserve adopted model forms that all financial institutions may use to comply with the notice requirement under section 217.⁶ Because a financial institution is allowed to send the notice relating to furnishing negative information prior to, or within thirty days after, it furnishes negative information, the model forms contain alternative language that a financial institution may use, depending on whether the notice is provided prior to, or after, furnishing negative information. The provisions in section 217 were effective December 1, 2004.⁷

Description of Information Collection

A financial institution generally may provide the notice about furnishing negative information on or with any notice of default, any billing statement, or any other materials provided to the customer, so long as the notice is clear and conspicuous. After providing such notice, the financial institution may submit additional negative information to a consumer reporting agency described in section 603(p) of the FACT Act, with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer. Section 217 specifically provides, however, that the notice may not be included in the initial disclosures provided under section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)).⁸

Section 217 also provides certain safe harbors for institutions concerning their efforts to comply with the notice requirement. A financial institution is deemed to be in compliance with the notice requirement if it uses the Federal Reserve's model form, or uses the model form and rearranges its format. In addition, section 217 provides that a financial institution is not liable for failure to perform the duties required by this section if, at the time of the failure, the institution maintained reasonable policies and procedures to comply with the section or the institution reasonably believed that the institution was prohibited by law from contacting the customer.

⁶ Under section 217, the term "financial institution" is defined broadly to have the same meaning as in the privacy provisions of the Gramm-Leach-Bliley Act of 1999 (GLB Act), which defines financial institution to mean "any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956," whether or not affiliated with a bank. 15 U.S.C. 6809(3). Thus, the term "financial institution" includes not only institutions regulated by the Federal Reserve and other federal banking agencies, but also includes other financial entities, such as merchant creditors and debt collectors that extend credit and report negative information. 16 CFR 313.3(k) (65 FR 33646 and 33655, May 24, 2000).

Federal Reserve-covered institutions are defined by Regulation V as: banks that are members of the Federal Reserve System (other than national banks), 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, organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601 et seq., and 611 et seq.), and bank holding companies and affiliates of such holding companies (other than depository institutions and consumer reporting agencies).

⁷ 69 FR 6526 (February 11, 2004).

⁸ The collection of information under Regulation Z is assigned OMB No. 7100-0199 for purposes of the PRA.

Time Schedule for Information Collection

With respect to this notice requirement, section 217 specifies that an institution must provide the required notice to the customer prior to, or no later than thirty days after, furnishing the negative information to a nationwide consumer reporting agency. After providing the notice, the institution may submit additional negative information to a nationwide consumer reporting agency with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer. If a financial institution has provided a customer with a notice prior to the furnishing of negative information, the institution is not required to furnish negative information about the customer to a nationwide consumer reporting agency.

Consultation Outside the Agency

On September 6, 2007, the Federal Reserve published a notice in the *Federal Register* (72 FR 51228) requesting public comment for 60 days on the disclosure requirements associated with Regulation V. The comment period for this notice expires on November 5, 2007.

Legal Status

The Board's Legal Division has determined that the FCRA, as amended, authorizes the Federal Reserve to issue regulations to carry out the provisions of the Act (15 U.S.C. § 1681s-2(a)(7)). Because the records are maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality arises under the Freedom of Information Act.

Estimate of Respondent Burden

The annual respondent burden for this information collection is estimated to be 7,500 hours. Approximately 30,000 financial institutions furnish information to consumer reporting agencies. It is expected that providing the notice to consumers would not significantly burden financial institutions because many provide a standardized notice to consumers routinely in connection with account openings prior to furnishing negative information. The Federal Reserve estimates that financial institutions with customized disclosures would take approximately fifteen minutes annually to update their notices with changes such as contact information. This represents less than 1 percent of total annual Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Average annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Section 217 notice	30,000	1	15 minutes	7,500

The total cost to the public is estimated to be \$462,375.⁹

⁹ Total cost to the public was estimated using the following formula. Percent of staff time, multiplied by annual burden hours, multiplied by hourly rate: 30% - Clerical @ \$25, 45% - Managerial or Technical @ \$55, 15% -

Estimated Cost to the Federal Reserve System

The annual cost to the Federal Reserve System for collecting this information is negligible.

Sensitive Questions

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

Senior Management @ \$100, and 10% - Legal Counsel @ \$144. Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics, *Occupational Employment and Wages*, news release.