

control number for this final rule is 7100–0201.

The information collection that is revised by this rulemaking is found in 12 CFR part 202. This information collection is mandatory to evidence compliance with the requirements of 15 U.S.C. 1691b(a)(1) and Public Law 104–208, § 2302(a), and also to ensure that credit is made available to all creditworthy customers without discrimination on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to contract), receipt of public assistance income, or the fact that the applicant has in good faith exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1600 *et seq.*).

Regulation B applies to all types of creditors, not just state member banks (SMBs). However, under the Paperwork Reduction Act, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for entities that are supervised by the Federal Reserve. Appendix A of Regulation B defines these creditors as SMBs, 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. Other Federal agencies account for the paperwork burden for the institutions they supervise. Creditors are required to retain records for 12 to 25 months as evidence of compliance.

The estimated annual burden for entities supervised by the Federal Reserve is approximately 175,700 hours for the 1,312 creditors that are “respondents” for purposes of the Paperwork Reduction Act. In conjunction with the proposed revisions to Regulation B, the Board sought comment on the burden estimate for the proposed changes. Approximately 750 comments were received on the proposed rulemaking. Commenters generally opposed most of the major proposed revisions to the regulation, but provided suggestions for additional revisions to help facilitate compliance with the regulation. Creditors commented that the burden estimate in the proposed rulemaking was too low; however, none quantified or provided evidence of acceptable higher estimates.

The increase in the estimated annual burden, from previously published burden estimates, is due to the new disclosure requirement associated with § 202.5(b)(1). Section 202.5(b)(1) requires creditors that collect applicant

characteristics for purposes of conducting a self-test to disclose to credit applicants that providing the information is optional, that the creditor will not take the information into account in any aspect of the credit transaction, and, if applicable, that the information will be noted by visual observation or surname if the applicant chooses not to provide it. To help ease burden, a model notice is provided in Appendix C to Regulation B.

The exact burden of the disclosure requirement is difficult to quantify because it is unclear how many creditors will choose to conduct self-tests, but that burden is expected to be minimal given that a model form is provided. The estimated annual burden for the new disclosure is approximately 10,000 hours. The estimated annual burden represents about 3.5 percent of total Federal Reserve System burden.

For purposes of the PRA, no paperwork burden is associated with the recordkeeping requirement for information about prescreened solicitations (§ 202.12(b)(7)). The final rule generally requires creditors to retain information they already retain for business purposes. Thus, there will likely be some incremental compliance burden but no additional paperwork burden; and commenters did not provide any comments to the contrary.

Because the records would be maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality normally arises. However, the information may be protected from disclosure under exemptions (b)(4), (6), and (8) of the Freedom of Information Act (5 U.S.C. 522(b)).

The Board has a continuing interest in the public’s opinions of the Federal Reserve’s collections of information. At any time, comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0201), Washington, DC 20503.

IX. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 604(a)), the Board has prepared a final regulatory flexibility analysis of these revisions to Regulation B. The final rule is a consequence of Board policy to review and update its regulations periodically. The Board’s previous

comprehensive review of Regulation B was completed in 1985.

The Board received no comments specifically responding to the initial regulatory flexibility analysis published in conjunction with the proposed rule. As discussed in the supplementary information presented above, however, many comments the Board received discussed the compliance burdens arising from particular proposals. Such comments are summarized throughout the supplementary information, as are the Board’s responses. The supplementary information also contains discussions of the alternative measures the Board considered, and in some cases adopted, to reduce burden.

Some changes in the final rule should not impose additional burden on institutions. The general prohibition on data notation for nonmortgage credit products has been retained, subject to an exception to allow the collection of applicants’ personal characteristics for the purpose of conducting a self-test under § 202.15. To the extent creditors choose to collect these data, however, the final rule requires a disclosure to be made to applicants. The Board has tried to minimize any burden imposed by the disclosure requirement by publishing a model disclosure form. The exact burden of the disclosure requirement is difficult to quantify; it is uncertain how many creditors will choose to conduct self-tests and collect these data.

The final rule imposes a new requirement upon creditors to retain certain records in connection with certain prescreened solicitations. This requirement will enable the Board and the other enforcement agencies to monitor solicitation practices in a systematic way that to date has not been possible, based on information that creditors currently maintain. The Board will at some future date determine whether additional steps might be warranted for coverage of prescreened solicitations by Regulation B.

Although the new rule will impose some burden on creditors, the Board has sought to minimize burden by tracking existing legal requirements and current business practice. For example, users of consumer reports are required to retain some prescreening information under the Fair Credit Reporting Act. The final rule under Regulation B parallels this requirement. In addition, many creditors retain part or much of the solicitation information for business purposes, such as to evaluate marketing plans.

The Board has modified the final rule to further reduce compliance burden. The proposed rule would have required creditors to keep the marketing plan to