

**BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
INFORMATION COLLECTION REQUEST**

**SUPPORTING STATEMENT PART A
STATE OFFICIAL NOTIFICATION RULE - 12 CFR §1082
(OMB CONTROL NUMBER: 3170-0019)**

OMB TERMS OF CLEARANCE: Not applicable. The Office of Management and Budget (OMB) provided no Terms of Clearance when it last approved this collection of information in April 2015.

ABSTRACT: Section 1042 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5552 (“Act”), gave authority to certain State and US territorial officials to enforce the Act and regulations prescribed thereunder. Section 1042 also requires that the Bureau of Consumer Financial Protection (“Bureau”) issue a rule establishing how states are to provide notice to the Bureau before taking action to enforce the Act (or, in emergency situations, immediately after taking such an action). In accordance with the requirements of the Act, the Bureau issued a final rule (12 CFR § 1082.1) establishing that notice should be provided at least 10 days before the filing of an action, with certain exceptions, and setting forth a limited set of information which is to be provided with the notice.

OMB’s approval for this collection of information is scheduled to expire on 04/30/2018. Pursuant to the requirements set forth in the Paperwork Reduction Act (PRA) implementing regulations at 5 CFR § 1320.12, *Clearance of collections of information in current rules*, this request is for OMB to extend (renew) its PRA approval for this collection of information for an additional three years.

JUSTIFICATION

1. Circumstances Necessitating the Data Collection

Section 1042 of the Dodd–Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5552 (“the Act”), gave authority to certain state officials to enforce the Act and regulations prescribed thereunder. Section 1042 also requires that the Bureau o issue a rule establishing how states are to provide notice to the Bureau before taking action to enforce the Act (or, in emergency situations, immediately after taking such an action). In accordance with the requirements of the Act, the Bureau issued a final rule (12 CFR § 1082.1) establishing that notice should be provided at least 10 days¹ before the filing of an action, with certain

¹ Pursuant to 12 U.S.C. 5552(b), for “Emergency actions” 12 CFR §1082.1(b) requires that notice be provided “as soon

exceptions, and setting forth a limited set of information which is to be provided with the notice. The notification requirements substantially track the statutory language provided at 12 U.S.C. § 5552(b)) and include the following information:

- the court or body in which the action or proceeding is to be initiated;
- the identity of the parties to the action or proceeding;
- the nature of the action or proceeding to be initiated;
- the anticipated date of initiating the action or proceeding;
- the alleged facts underlying the action or proceeding;
- a contact name, electronic mail address, and phone number of an individual involved with the matter in the office of the State Official with whom the Bureau may consult;
- a determination as to whether there may be a need to coordinate the prosecution of the action or proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Bureau, a prudential regulator, or another Federal agency; and
- a complete and un-redacted copy of any complaint, motion for relief, or similar document that is the subject of the notice, in its form as of the date the notice is provided.

When notice is provided after the initiation of an action, the written description shall also include the following information:

- a brief description of any preceding that occurred as a result of the initiation of the action or proceeding, including any orders issued by a court or other body;
- any case number, matter number, or designation assigned to the action;
- information on scheduled court or other administrative or regulatory proceedings; and
- a complete, un-redacted copy of any document filed by any party in relation to the action and any orders issued by the court or other body.

By statute, as noted above, state officials are required to provide notice to the Bureau and, as previously indicated, this notice is necessary to ensure that the Bureau is informed of pending matters and can evaluate those matters and determine a course of action. Without this rule, the

as is practicable and not later than 48 hours after initiation of the action or proceeding.”

Bureau's awareness of how new authorities granted by the Act are being implemented will be substantially hindered.

2. Use of the Information

The data is received each time a state official files an action to enforce the Act or a regulation promulgated thereunder. The data is collected by the Bureau who will share it as necessary and appropriate elsewhere in government, pursuant to the process set out in the rules. It will also be collected by the prudential regulators (through postal mail or electronic mail submissions) where relevant. Unless used as part of a legal proceeding in which the Bureau is engaged, it is not expected that the information will be shared with the public by those receiving the notice, unless the information is already made public by the state official providing the notice.

As discussed above, the information provided in the notice is used by the Bureau (and prudential regulators, where relevant) to stay informed about the enforcement activities of state officials enforcing the Act and to decide when and how, if at all, to react to such activities.

3. Use of Information Technology

To ensure that the process of providing notice is both easy and fast, notice to the Bureau is provided by electronic mail. State officials have the option of providing notice electronically or by postal mail to prudential regulators.

4. Efforts to Identify Duplication

The Bureau is not aware of any other formal process by which the Bureau would be notified of pending state enforcement actions.

5. Efforts to Minimize Burdens on Small Entities

Not applicable. The information collected will come from state officials. Small businesses or other small entities are not impacted by this collection of information.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

As discussed above, failing to collect this information may leave the Bureau without the necessary information as to pending state actions in an area of law for which the Bureau has primary regulatory authority, which will limit the Bureau's ability to consult with states and

become involved as appropriate before a case is filed.

7. Circumstances Requiring Special Information Collection

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR §1320. 5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 CFR §1320.8(d)(1), the Bureau has published a notice *Federal Register* allowing the public 60 days to comment on this proposed the extension (renewal) of this currently approved collection of information.² The Bureau received nine comments, eight of which were about general Bureau operations and suggested priorities for Bureau resources. One discussed burden estimates. This commenter suggested that the Bureau should collect data in order to determine accurate burden estimates. The Bureau continues efforts to refine all its burden estimates through regulatory lookback efforts, and ongoing discussions with regulated entities and the general public.

Further and in accordance with 5 CFR §1320.5(a)(1)(iv), the Bureau has also published a notice in the *Federal Register* allowing the public 30 days to comment on the submission of this information collection request to OMB.

9. Payments or Gifts to Respondents

Not applicable. The information collection does not provide for making payments or gifts to respondents.

10. Assurances of Confidentiality

As set forth in the rule at 12 CFR § 1082.1(e), unless and until the information becomes publically available, the substance and fact of the notice will not be disclosed by the Bureau or any relevant prudential regulator who received the notice except:

- as required by law;
- with the permission of the state official who provided the notice; or
- by the Bureau to another state of federal entity when necessary to protect the public interest, after consultation with the state official who provided the notice.

² <https://www.federalregister.gov/documents/2017/12/27/2017-27872/agency-information-collection-activities-comment-request>

Because this collection of information does not involve the collection of information from or about individuals, the Privacy Act of 1974, as amended 5 U.S.C. § 552a is not implicated. Therefore, no privacy impact assessment has been conducted nor has the Bureau published a Systems of Records Notice relative to this collection of information.

11. Justification for Sensitive Questions

Not applicable. The collection of information does not impact individuals and does not collect information that would be considered private.

12. Estimated Burden of Information Collection

The information sent under the notice provisions of the rule is primarily information which the state officials providing the notice would have already collected and have available at the time notice is given. The requirements apply to all fifty (50) states, the District of Columbia, and all five (5) inhabited U.S. territories; therefore the total number of potential respondents is 56. It is estimated that compiling and sending the requested information would require no more than 30 minutes²³ of additional work. Over the past three years, on average the Bureau has 6 per year. Accordingly, the Bureau estimates the burden on states and territories as follows:

$$6 \text{ Notices per year} \times .5 \text{ hours} = 3 \text{ annual burden hours.}$$

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

There should be minimal annualized costs for the state officials to collect and submit this information, consisting of only the *de minimis* costs related to compiling the information and transmitting it to the Bureau

14. Estimated Cost to the Federal Government

The Bureau does not incur any new or unique costs as a result of this collection of information.

15. Program Changes or Adjustments

The Bureau is not reporting any program changes with this submission. The Bureau is reporting

³ As part of the standard PRA clearance process, the Bureau, among other things, sought public comment on this estimate (see 76 FR 71932 and 77 FR 12255). The Bureau received no comments in regards to this estimate. Further, the Bureau has received no comments from states pertaining to this estimate.

an adjustment of 1 hour since the collection was last approved by OMB in April 2015. The adjustment results from the Bureau's experience administering its regulatory requirements for state notifications.

Summary of Burden Changes

	Total Respondents	Annual Responses	Burden Hours	Cost Burden (O & M)
Total Annual Hours Requested	6	6	3	0
Current OMB Inventory	3	3	2	0
Difference (+/-)	+3	+3	+1	
Program Change	0	0	0	0
Discretionary	0	0	0	0
New Statute	0	0	0	0
Violation	0	0	0	0
Adjustment	3	3	1	0

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable. The information will not be published.

17. Display of Expiration Date

The OMB control number and expiration date will be displayed on the Federal government's electronic PRA docket at www.reginfo.gov and in the Code of Federal Regulations.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR § 1320.9, and the related provisions of 5 CFR § 1320.8(b)(3) and is not seeking an exemption to these certification requirements.

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