

eRegulations Notice & Comment Pilot Project

Workshop with EPA on March 8, 2016

Today's agenda:

- Hello and introductions
- Research readout & goals
- Design studio
- Identify metrics
- Wrap up

What is eRegulations?

☰	📄	🔍	➤
TABLE OF CONTENTS			
SUBPART A - General			
§ 1005.1 Authority and purpose.			
§ 1005.2 Definitions.			
§ 1005.3 Coverage.			
§ 1005.4 General disclosure requirements; jointly offered services.			
§ 1005.5 Issuance of access devices.			
§ 1005.6 Liability of consumer for unauthorized transfers.			
§ 1005.7 Initial disclosures.			
§ 1005.8 Change in terms notice; error resolution notice.			
§ 1005.9 Receipts at electronic terminals; periodic statements.			
§ 1005.10 Preauthorized transfers.			
§ 1005.11 Procedures for resolving errors.			
§ 1005.12 Relation to other laws.			
§ 1005.13 Administrative enforcement:			

§ 1005.4 General disclosure requirements; jointly offered services.

a. 1. FORM OF DISCLOSURES.

Disclosures required under this part shall be clear and readily understandable, in writing, and in a form the consumer may keep, except as otherwise provided in this part. The disclosures required by this part may be provided to the consumer in electronic form, subject to compliance with the consumer-consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). A financial institution may use commonly accepted or readily understandable abbreviations in complying with the disclosure requirements of this part.

2. FOREIGN LANGUAGE DISCLOSURES.

Disclosures required under this part may be made in a language other than English, provided that the disclosures are made available in English upon the consumer's request.

 OFFICIAL INTERPRETATION TO 4(a)

[SHOW](#) 

b. Additional information; disclosures required by other laws.

A financial institution may include additional information and may combine disclosures required by other laws (such as the Truth in Lending Act (15 U.S.C. 1601 et seq.) or the Truth in Savings Act (12 U.S.C. 4301 et seq.) with the disclosures required by this part.

c. Multiple accounts and account holders.

1. MULTIPLE ACCOUNTS.


A financial institution may combine the required disclosures into a single statement for a consumer who holds more than one account at the institution.

2. MULTIPLE ACCOUNT HOLDERS.

For joint accounts held by two or more consumers, a financial institution need provide only one set of the required disclosures and may provide them to any of the account holders.

d. Services offered jointly.

Financial institutions that provide electronic fund transfer services jointly may contract among themselves to comply with the requirements that this part imposes on any or all of them. An institution need make only the disclosures required by §§ [1005.7](#) and [1005.8](#) that are within its knowledge and within the purview of its relationship with the consumer for whom it holds an account.

SECTION-BY-SECTION ANALYSIS 

HELP 



TABLE OF CONTENTS

SUBPART A - General

§ 1005.1

Authority and purpose.

§ 1005.2

Definitions.

§ 1005.3

Coverage.

§ 1005.4

General disclosure requirements; jointly offered services.

§ 1005.5

Issuance of access devices.

§ 1005.6

Liability of consumer for unauthorized transfers.

§ 1005.7

Initial disclosures.

§ 1005.8

Change in terms notice; error resolution notice.

§ 1005.9

Receipts at electronic terminals; periodic statements.

§ 1005.10

Preauthorized transfers.

§ 1005.11

Procedures for resolving errors.

§ 1005.12

Relation to other laws.

§ 1005.13

§ 1005.4 General disclosure requirements; jointly offered services.

a. 1. FORM OF DISCLOSURES.

Disclosures required under this part shall be clear and readily understandable, in writing, and in a form the consumer may keep, except as otherwise provided in this part. The disclosures required by this part may be provided to the consumer in electronic form, subject to compliance with the consumer-consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-Sign Act) (15 U.S.C. 7001 et seq.). A financial institution may use commonly accepted or readily understandable abbreviations in complying with the disclosure requirements of this part.

2. FOREIGN LANGUAGE DISCLOSURES.

Disclosures required under this part may be made in a language other than English, provided that the disclosures are made available in English upon the consumer's request.

OFFICIAL INTERPRETATION TO 4(a)

[HIDE](#)

4(a) Form of Disclosures

1. GENERAL.

Although no particular rules govern type size, number of pages, or the relative conspicuousness of various terms, the disclosures must be in a clear and readily understandable written form that the consumer may retain. Numbers or codes are considered readily understandable if explained elsewhere on the disclosure form.

2. FOREIGN LANGUAGE DISCLOSURES.

Disclosures may be made in languages other than English, provided they are available in English upon request.

[See this interpretation in Supplement I](#)

b. Additional information; disclosures required by other laws.

A financial institution may include additional information and may combine disclosures required by other laws (such as the Truth in Lending Act (15 U.S.C. 1601 et seq.) or the Truth in Savings Act (12 U.S.C. 4301 et seq.) with the disclosures required by this part.

c. Multiple accounts and account holders.

DEFINED TERM

"Financial institution" means a bank, savings association, credit union, or any other person that directly or indirectly holds an account belonging to a consumer, or that issues an access device and agrees with a consumer to provide electronic fund transfer services, other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376.

[§ 1005.2\(i\)](#)

SECTION-BY-SECTION ANALYSIS

HELP



REGULATION TIMELINE

Find the regulation effective on this date:

CURRENT LAW

11/17/2014

FINAL RULE

Published 9/18/2014 [↗](#)

COMPARE THIS WITH



10/28/2013

3/26/2013

12/30/2011

TABLE OF CONTENTS

§ 1005.13

Administrative enforcement; record retention.

§ 1005.14

Electronic fund transfer service provider not holding consumer's account.

§ 1005.15

Electronic fund transfer of government benefits.

§ 1005.16

Disclosures at automated teller machines.

§ 1005.17

Requirements for overdraft services.

§ 1005.18

Requirements for financial institutions offering payroll card accounts.

§ 1005.20

Requirements for gift cards and gift certificates.

§ 1005.30

Remittance transfer definitions.

§ 1005.31

Disclosures.

§ 1005.32

Estimates.

§ 1005.33

Procedures for resolving errors.

§ 1005.34

Procedures for cancellation and refund of remittance transfers.

§ 1005.35

§ 1005.16 Disclosures at automated teller machines.

a. Definition.

"Automated teller machine operator" means any person that operates an automated teller machine at which a consumer initiates an electronic fund transfer or a balance inquiry and that does not hold the account to or from which the transfer is made, or about which an inquiry is made.

b. General.

An automated teller machine operator that imposes a fee on a consumer for initiating an electronic fund transfer or a balance inquiry shall *must provide a notice that a fee will be imposed for providing electronic fund transfer services or a balance inquiry that discloses the amount of the fee.*

1. Provide notice that a fee will be imposed for providing electronic fund transfer services or a balance inquiry; and
2. Disclose the amount of the fee.

c. Notice requirement.

~~To meet~~ *An automated teller machine operator must provide the requirements notice required by paragraph (b) of paragraph (b) this section either by showing it on the screen of this section, or the automated teller machine operator must comply with or by providing it on paper, before the following: consumer is committed to paying a fee.*

1. ON THE MACHINE.

Post in a prominent and conspicuous location on or at the automated teller machine a notice that:

- A fee will be imposed for providing electronic fund transfer services or for a balance inquiry; or
- A fee may be imposed for providing electronic fund transfer services or for a balance inquiry, but the notice in this paragraph (c)(1)(ii) may be substituted for the notice in paragraph (c)(1)(i) of this section only if there are circumstances under which a fee will not be imposed for such services; and

2. SCREEN OR PAPER NOTICE.

Provide the notice required by paragraphs (b)(1) and (2) of this section either by showing it on the screen of the automated teller machine or by providing it on paper, before the consumer is committed to paying a fee.

d. Imposition of fee.

An automated teller machine operator may impose a fee on a consumer for initiating an electronic fund transfer or a balance inquiry only *if*:

HELP



N&C Project Goals

NOTICE AND COMMENT PILOT

Goals:

- Find out if this interface will **help facilitate the comment process** by **making it easier** and **less intimidating** for the general public to comment.
- Build this feature **fully-open source** so other agencies and organizations can build, modify, and enhance the platform.

HYPOTHESIS for COMMENTERS

By presenting the new rule in the context of the changing regulation, we will **make it easier for commenters to understand the changes and better explain their views.**

Therefore, lessening the contextual burden on the public.

HYPOTHESIS for AGENCIES

By providing agencies with more context as to what parts of the rule comments relate to, we will **make their job of sorting the comments easier and faster.**

Therefore, lessening the contextual burden on agency staff.

Research Findings

USER RESEARCH

Internal staff - Who did we talk to?

11

Total

8

EPA

- 1 Office of Water
- 2 Office of Chemical Safety and Pollution Prevention
- 1 eRulemaking
- 3 Rule writers
- 1 Docket office

2

CFPB

- 2 Rule writers in Research, Markets, & Regulation

1

FCC

- 1 Office of General Council

Comments come in many forms

- A wide range of comment styles to address
- One paragraph to 100 pages
- “What is a regulation?” to legal backgrounds
- “This is the worst!” to detailed cost benefit analysis

Who should comment?

- Would love to see more comments from individuals
- Far more people are affected than those who comment
- Individual commenters write with a lot of passion from personal experience
- Getting more individual commenters requires going beyond publishing to the federal register
- Awareness of the comment process is low

Research Findings - Internal Users

What do we do with all these comments?

Sorting Comments

Research Findings - Internal Users - Sorting

- **It's hard to sort comments well**
 - **Contractors are often used but can be expensive and still require work to utilize**
 - **Takes some familiarity with the rule to do a great job**
- **Sorting is still a very manual process**
 - **Algorithms can help pick out form letter style comments**
 - **Sorting out the comments that are just expressing an opinion is hard**

Research Findings - Internal Users - Sorting

- **Proposals provide a framework to sort by**
 - **Proposals are often written in a way that separates the different subject areas they'd like to see comment on**
- **Large comments can establish buckets**
 - **Large comments are often broken down into sections that help establish the buckets smaller comments fall in**

Research Findings - Internal Users

Making sure everyone is heard.

Responding to Comments

- **Parsing the comments**

- **The most time consuming thing is sorting through all the pages and identifying each distinct piece of commentary**
- **Form letters grouped together and a response is prepared that addresses all of them**

- **Responding**

- **If we agree, we have to fix it, if we disagree with a comment we have to explain why**
- **We collaborate on responses, sending them back and forth to the people who worked on different sections of the proposal**

USER RESEARCH

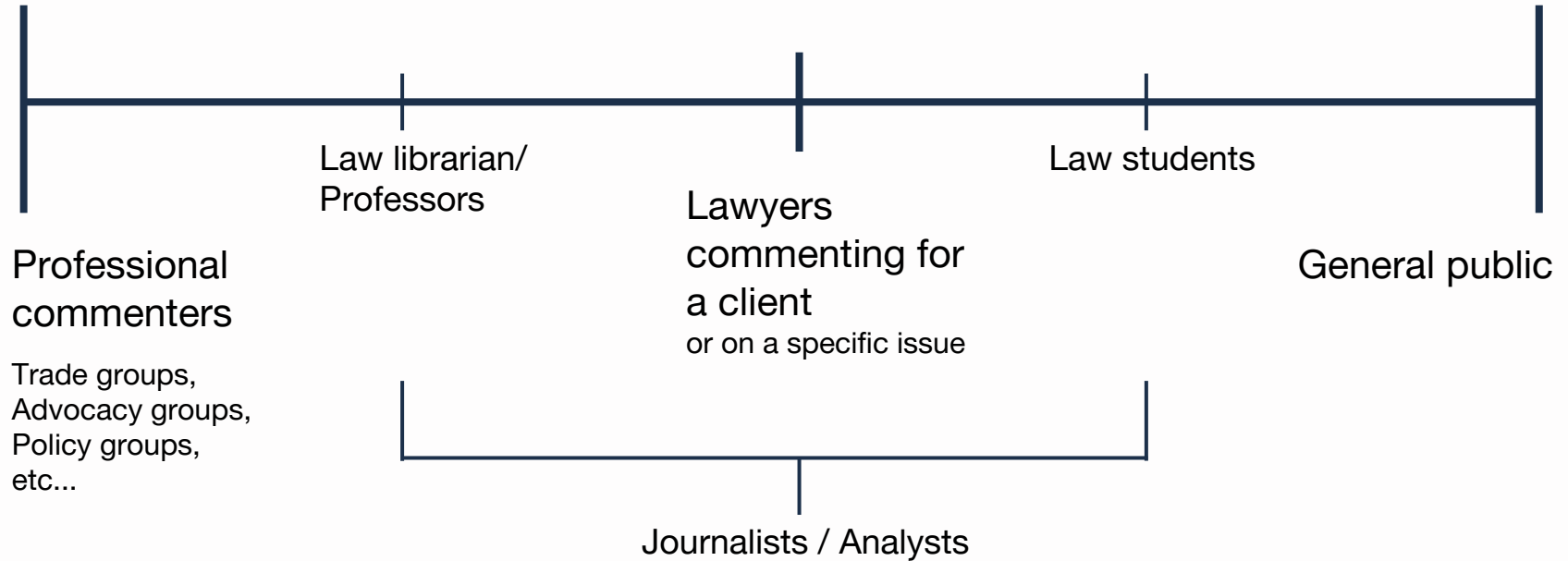
External users - Who did we talk to?



THE SPECTRUM OF USERS

**“I understand
the process.”**

**“I don’t know what the
notice and comment
process is.”**



Research Findings - External Users

Finding something to comment on

Missing context

Research Findings - External Users - Missing context

Professional commenter

“ I’m supposed to know this is coming. ”

General public commenter

“ I just got lucky! ”

Types of missing context

- Larger context
 - **Why a regulation?** Why are these agencies writing this as opposed to congress? More than one agency has jurisdiction over this issue? How do I figure that out?
 - **What tools do I have?** What's in the FR vs the eCFR vs regs.gov?
 - **What stage is the rule in?** ANPRM, NPRM, NFRM, Etc...
- Context in terms of the regulation
 - Some people print out the rule and the regulation to compare the changes between them.
 - Need to understand the full regulation in order to understand what's changing.

Research Findings - External Users

The act of commenting

Forms of commenting

Research Findings - External Users - Forms of commenting

- Commenting in the box is looked at by professional commenters as the shortcut version.
- The in-site comments are often the ones with less value.

Why is a PDF important?

- Formatting is very important to lawyers. They want this comment to look like a legal document.
 - Footnotes are vital to the validity of the legal argument
- Use long PDFs to tell a story over many different issues inside the rule.
- **PDFs offer control**
 - *“We’re lawyers so we cite everything.”*
 - *“I pride myself in writing very effective comments.”*

Research Findings - External Users

Post-comment submission

Very little feedback loop

Research Findings - External Users - Very little feedback loop

“ I want to make sure some human actually reads this and thinks about this for a few seconds. ”

“ No one's going to read this thing, what are you doing? ”

Research Findings - External Users - Very little feedback loop

Professional commenter

- “I know I’m going to wait a year to get an answer.”
- “I understand why it may not be feasible to respond to every comment.”

General public commenter

- Doesn’t know what the checkpoints are in the commenting process.
 - What happened to my comment?
 - Did the agency hear me?
 - Did the agency respond to my comment?

Research Findings - Internal Users

Should commenters talk amongst themselves?

Open Discussion

Research Findings - Internal Users - Open Discussion

- **Reply Periods**
 - **Having a reply period is standard at the FCC**
 - **Reply periods help narrow the issue**
- **Some interest in a back and forth conversation**
 - **“The only way we can get a back and forth going is if we can get them to meet with us”**
 - **“Would be interesting if people could have a discussion amongst themselves without us (CFPB) having to mediate the discussion”**

Research Findings - External Users - Open Discussion

Professional commenter

- Groups of people are writing & approving these comments.
- Takes time to craft a good comment. (*10-100+ page documents*)
- Advocacy groups often build their own comment systems to collect on behalf of the public.

General public commenter

- 1 sentence - 1 page comments.
- Can be commenting through an advocacy group.

Research Findings - External Users - Open Discussion

“

Can't see what everyone else has to say. It is hard to collaborate with other commenters.

”

“

If others are making the same comment, I am more brief: ‘As many commenters have said...’

”

Research Findings - Open Discussion

General consensus

Having a back and forth between commenters could change the commenting experience.

Research Findings - Internal Users

What makes a good comment?

Effective commenting

- **Making a better comment**
 - **Commenters should back up their ideas with examples/data**
 - **“This could be improved by adding...” is helpful**
 - **Reviewers love seeing cost information in the comments**
 - **Commenters should be steered towards commenting on what the proposal actually is.**

- **Making a better comment**

- **A good commenter has subdivided their letter into the things they are going to be commenting on.**
- **Great comments make direct references to sections in the proposal.**
- ***“A substantive comment is one that says whether or not we should be modifying the rule”***
- ***“It would be great if people could comment on specific paragraphs”***

Research Findings - External - Effective Comments

- **Commenters want to know what they should comment on**
- **External view of what makes a good comment**
 - A good comment understands the purpose of the regulation
 - *“I understand what you’re trying to do but here’s the problem with how you’re going about that.”*
 - *“I support this rule change for X, Y, and Z. And I agree.”*

Research Findings - External - Effective Comments

“

It seems inefficient to be filing written comments when I know EPA is going to cut them up and put them in different buckets. If they would indicate to me how they do that, I would file them in a way that makes it easier for them.

”

Questions?

Sketching Exercise