

**CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT**

**QUALITATIVE TESTING OF MORTGAGE SERVICING RELATED MODEL
FORMS AND DISCLOSURES
(OMB CONTROL NUMBER: 3170-XXXX)**

Abstract

This is a request for emergency clearance by the Consumer Financial Protection Bureau (CFPB or Bureau) to allow for qualitative testing of mortgage servicing related model forms and disclosures. The research will result in the development of, and revisions to, proposed and final model forms and disclosures provided to consumers in connection with mortgage loan obligations after origination. The research activities will be conducted primarily by an external contractor, ICF International (ICF), employing cognitive psychological testing methods. This approach has been demonstrated to be feasible and valuable by the CFPB and other agencies in developing disclosures and other forms. The planned research activities will be conducted during FY 2012 with the goal of creating effective disclosures and related materials for consumers regarding mortgage loan obligations after origination.

A. JUSTIFICATION

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This is a request for emergency clearance by the CFPB for qualitative testing of mortgage servicing related model forms and disclosures.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No. 111-203, Title XIV (Dodd-Frank Act), requires CFPB to publish, in final form, certain mortgage servicing rules by January 21, 2013. These rules implement sections 1418 (Reset of Hybrid Adjustable Rate Mortgages), 1420 (Periodic Mortgage Loan Statements) and 1463 (Force-Placed Insurance Disclosures) of the Dodd-Frank Act. The CFPB has determined that model forms and disclosures are required for these rules. Dodd-Frank Act §§ 1418, 1420, and 1463.

To meet its statutory deadline, the CFPB must draft proposed rules, complete impact analyses and other applicable requirements, provide commenters with a 60 day comment period with respect to a proposed rule, allow enough time to consider the comments received, and issue the final rule. In order to meet these requirements, the Bureau needs to be able to publish a proposed rule by July 2012.

The statutory authorization under which the CFPB will conduct its data collection efforts is provided under the Dodd-Frank Act. *See* Dodd-Frank Act §§ 1418, 1420, and 1463. Further, as a general matter, Section 1021(b)(1) of the Dodd-Frank Act authorizes the

CFPB to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services, consumers are provided with timely and understandable information to make responsible decisions about financial transactions.

The CFPB has determined that qualitative testing is necessary to test the effectiveness of the model forms and disclosures. The CFPB has further determined that the qualitative evaluation of the forms, as part of the iterative design process, needs to be initiated in January 2012, to allow for three rounds of testing prior to issuing a proposed rule in July 2012. The testing will be conducted in three different locations, with sufficient time for analysis and revisions between each round. The aggressive schedule is necessary so that the Bureau can draft proposed regulations, complete impact analyses and other applicable procedural requirements, publish a proposed rule in July 2012, and publish a final rule by January 21, 2013, as mandated in the Dodd-Frank Act. Without model forms and disclosures printed in final form by January 21, 2013, consumers will not gain the benefit of clear, uniform, and tested forms and disclosures and mortgage servicers will find themselves subject to provisions of the Dodd-Frank Act without the benefit of model forms or disclosures to help them comply with their obligations.

Any testing conducted under this emergency clearance will only pertain to creation and evaluation of the mortgage servicing related model forms and disclosures.

2. USE OF DATA

The data collected will be used to inform the CFPB's design and development process and evaluation of the model forms and disclosures. The research will include cognitive one-on-one think-aloud interviews. Data collection tools will include: consent forms, brief participant questionnaires, and brief, focused protocols for individual interviews.

The information collected during qualitative testing of the model forms and disclosures will inform design and content of the forms, using an iterative process to improve the draft forms. The data (consisting of notes and audio- and video-recordings from the interviews) will be coded and analyzed by ICF to determine what elements of the form are effective and what elements need revision. The data will be shared with the CFPB staff working on the disclosure project to inform their decisions on revisions to the disclosure form. The iterative development process will improve the disclosure forms — in terms of accessibility, content, and/or opportunity to demonstrate understanding.

Information collected is not meant to be, and will not be treated as, a sample that is statistically generalizable to the overall American population.

3. USE OF INFORMATION TECHNOLOGY TO REDUCE BURDEN

The majority of the data collection involves interviews, which will be conducted without computer assistance. There is no planned use of electronic capture software systems for qualitative testing. Should that change and electronic capture software systems be

planned for future use, details regarding such software would be provided in future mini-supporting statements.

4. EFFORTS TO IDENTIFY DUPLICATION

This research does not duplicate any outside-of-government research effort, as its purpose is not to replicate survey research studies. The research is necessary to design, develop, and implement new model forms and disclosures required by the Dodd-Frank Act. ICF and CFPB staff working on the project are cognizant of current research being done in the field of disclosure design and development. The CFPB will continue to monitor research on disclosures and related work of researchers and other Federal regulatory agencies to ensure that the CFPB's research techniques reflect current knowledge and best practices.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The data collection is not anticipated to burden small entities because all information collection will occur from individuals.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION AND OBSTACLES TO BURDEN REDUCTION

If this information is not collected, it will not be possible to evaluate the effectiveness of the model forms and disclosures. Each individual will participate only once, so frequency of data collection is not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.6

No special circumstances require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.6.

8(a). CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

The CFPB has contracted with ICF, a contractor with expertise in disclosure design, communication, and research. The Bureau will use this expertise in its development of the mortgage servicing related model forms and disclosures and the administration and analysis of the qualitative testing.

8(b). SOLICITATION OF COMMENTS ON INFORMATION COLLECTION

Comments on this request for a clearance to conduct research were solicited in the Federal Register on December 14, 2011. 76 Fed. Reg. 77766 (Dec. 14, 2011).

The CFPB received comments from two mortgage industry trade associations, two credit union trade associations, two specialty insurance providers and one insurance industry trade association.

A credit union trade association commented that the information collection should collect input from a broad range of demographics, including age, gender, race, education, income level, etc. The CFPB agrees with the commenter and is focused on ensuring that participants in the qualitative testing represent a diverse group of demographic categories, including each of the categories specifically identified by the commenter. Specifically, the CFPB will develop data in connection with the recruitment screening of candidates that will be used to select participants that represent diverse backgrounds and characteristics. Further, the CFPB will conduct the three rounds of qualitative testing in different geographic locations and has selected those locations to provide a broad sample of demographic characteristics.

Two commenters requested that CFPB refer to “force-placed insurance” as either “lender-placed insurance” or “creditor-placed insurance” because the term “force-placed insurance” is “an outdated term that implies borrowers do not have control over the process.” Commenters state that “[i]n reality, borrowers have complete control as to whether insurance is placed through their decision to maintain (or not maintain) acceptable insurance.” The CFPB observes that the term “force-placed insurance” is a specific, statutorily-defined term. *See 12 U.S.C. § 2605(k)(2)* (defining “force-placed insurance”). Accordingly, to maintain consistency and reduce confusion, the CFPB uses the term “force-placed insurance” to refer to hazard insurance coverage obtained by a servicer of a federally related mortgage when the borrower has failed to maintain or renew hazard insurance on such property as required of the borrower under the terms of the mortgage.

Five commenters stated that input from servicing industry participants should be considered in connection with the design of the model forms. The CFPB agrees with the commenters and the CFPB has engaged, and will continue to engage, in outreach with servicing industry participants to understand servicing industry participants’ concerns regarding the design and implementation of the model forms. The one-on-one qualitative interviews that are contemplated by this information collection, however, are targeted toward developing information and data regarding consumer understanding of the model forms. The CFPB does not believe that incorporating industry participants in the one-on-one qualitative interviews will yield useful information or data regarding consumer understanding of the model forms.

One commenter suggested that the CFPB conduct online monadic testing with a minimum of 400 respondents per testing cell. First, the commenter misunderstands the information collection requested by the CFPB. The commenter summarizes the information collection as proposing both “(1) [] one-on-one cognitive think aloud interviews with 36 respondents and (2) iterative qualitative testing of disclosures with another 360 respondents[.]” The CFPB, however, only proposes to collect information from 360 respondents in order to screen those respondents for participation in the 36 one-

on-one cognitive think aloud interviews. The CFPB also observes that the one-on-one cognitive think aloud interviews are a form of monadic testing because each participant will only be asked to view one version of each of the model forms. The real distinction between the commenter's comment and the CFPB's proposed testing methodology is that the commenter requests that CFPB conduct a form of quantitative testing through online interviews. The data generated from that type of survey would not provide the CFPB with robust information regarding the manner in which consumers interact with the forms, which will inform the iterative design process. Consequently, the CFPB does not believe the commenter's proposed testing methodology would generate the type of data most valuable to the CFPB in connection with the design of the forms nor would the data developed justify the additional burden of the collection.

One commenter suggested that servicing industry participants have an opportunity to provide feedback regarding the model forms before any such forms are tested through one-on-one qualitative interviews. The CFPB believes that information from all sources, including servicing industry participants, can be fully considered as part of the iterative qualitative testing process. For this reason, and in light of the fact that the model forms must be finalized by January 21, 2013, the CFPB does not believe that the information collection should be delayed until after receiving additional feedback from servicing industry participants. A commenter further suggested that the CFPB publish for comment a set of standards or principles that will guide the development of the model forms prior to engaging in consumer testing. This comment is beyond the scope of the current request. The CFPB observes, however, that commenters will have a full opportunity to comment regarding the content of the model forms when such forms are published in connection with a proposed rule.

Finally, six commenters set forth suggestions regarding the substantive content and implementation of the model forms. Specifically, these commenters emphasized that the model forms should present, clear, concise, relevant, and complete information, refer consumers to other available useful resources, either create a nationwide disclosure form or incorporate state law requirements, should not impose additional requirements beyond those set forth in the Dodd-Frank Act, and should only set forth suggested model language that may be adapted by individual servicers. Further, one commenter included sample forms for the CFPB to inform the design process. The CFPB appreciates receiving these comments and will consider them in connection with the design of the model forms; however, these comments do not relate to the methodology for collecting information regarding model forms and are beyond the scope of the current request for comment. Thus, specific response to each of these comments would not be appropriate at this juncture.

For the foregoing reasons, the CFPB does not contemplate revisions to the information collection at this time.

9. EXPLANATION OF DECISION TO PROVIDE PAYMENT OR GIFT TO RESPONDENTS

The research projects are not related to producing statistical estimates. In certain circumstances, a project's objectives can be accomplished at lower costs and with greatly reduced respondent burden by the use of small, purposive samples. For some research projects, the research team will travel to, and test in, different regions in the country, to obtain the participation of residents in those locations. Because respondents are asked to leave their homes and travel to the testing site, they will be reimbursed a designated amount of money for their time at the site and for transportation. Individual interviews involve a significant time commitment (60 minutes for the interview, plus travel time). Further, participants are being asked to undertake difficult tasks. For example, respondents may be asked to review multiple documents to determine if the documents provide appropriate information, communicate effectively, and enable consumers to understand and use the information.

The CFPB intends to schedule approximately twelve interviews per round of consumer testing. This method is intended to yield at least 8-10 completed one-on-one interviews per round of testing.

These commitments of time combined with the cognitive burden of tasks related to financial decisions require that sufficient incentive be provided to participants. ICF will pay each participant in the cognitive interview for his or her time. ICF has proposed providing incentives at the going rate for qualitative studies that use a 60 minute, one-on-one interview. At each site, they will pay consumer participants a stipend for their participation. While the interviews themselves will be an hour, participants will need to spend significant travel time getting to and from the facility where the data collection will take place. The CFPB estimates 1 hour of travel time per participant will be required. For the first round of testing, ICF will pay each consumer participant \$65. ICF has agreed to recruit consumer participants for the second round of testing with a \$40 stipend per consumer participant, which may be adjusted upward as agreed to by CFPB and OMB if recruiting efforts show that consumers are not responsive to a stipend level of \$40.

10. ASSURANCE OF PRIVACY OF RESPONSES

The CFPB imposed appropriate privacy requirements in its contract with ICF, to the extent permitted by applicable laws (as described above). ICF has agreed to comply with all requirements and restrictions in the contract about information release, non-disclosure of personal information, privacy, and security.

ICF's procedures for ensuring participant privacy are documented in its various testing protocols and procedures and are woven into its testing process. For each testing project that involves individual participants, they prepare specific participant consent forms.

ICF collects limited personal identifying information (PII), and only as provided for on consent forms. In subsequent reporting, ICF refers to participants only by number (e.g., Round #2, Participant #6). All PII is kept separately and without identifying participant numbers. ICF keeps consent forms in locked storage and physically separate from other

data to ensure that PII cannot, in any way, be linked to the data collected. The PII will not be provided to the CFPB.

ICF aggregates the data and reports the results without referencing or disclosing any identifying PII about the participants. Prior to the submission of deliverables, it reviews and redacts, where necessary, any personal data and results to protect the identities of the participants. At the completion of the project, ICF will transfer or destroy all private data according to the security procedures and requirements specified and approved by the CFPB.

Additionally, ICF requires all internal staff and any consultants employed (e.g., consultants who provide transcription services) to sign privacy forms before their participation in the project. ICF secures all private data in locked file cabinets and document archiving and storage in password-protected folders on secure servers. That information will only be accessible to those individuals employed by ICF who are approved to work on this project. ICF has shredders on site for destroying any private draft documents no longer needed and will archive only those copies required to be kept for record-keeping purposes. Its employees, subcontractors, and subcontract employees will not disclose any information it obtains or prepares in the course of performance of its contract to any third party without receiving written permission from the Contracting Officer. If disclosure of information is required by law or legal process, ICF is required to contact the Contracting Officer's Technical Representative and the Contracting Officer immediately to receive approval prior to release of any information.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

The most sensitive information expected to be collected in connection with the qualitative research activities is demographic data about the respondent, such as age range, race, income, education level and past or present experiences with mortgage loans. This will be collected voluntarily and is necessary to ensure the CFPB has a sufficient demographic mix for its purposive sample. Because each participant is identified by a number rather than a name, none of this demographic or loan experience data will be tied in reporting to any specific individual.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

<u>Process:</u>	<u>Number of Respondents</u>	<u>Average burden per response</u>	<u>Total burden hours</u>
Cognitive Think-Aloud Interviews	36	60 minutes	36
Screening	360	6 minutes	36
Travel time to sites	36	60 minutes	36
TOTAL			108 hours

The estimates are based on the average length of time it takes to complete this type of research based on similar research conducted by other regulators in developing disclosures.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There will be no annualized capital or start-up costs for the respondents to collect and submit this information.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There will be no annualized capital/start-up costs for the government to receive this information. This testing is funded with non-appropriated funds. It is anticipated that costs of \$15,540 will be incurred for facility rental, recruitment, incentives, and transcription services.

The Blanket Purchase Agreement, under which this data collection is being conducted, was awarded through a competitive bidding process.

15. PROGRAM CHANGES OR ADJUSTMENTS

Not applicable.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

The CFPB anticipates publishing a final testing report explaining the methodology and discussing the results of the qualitative testing. This report will provide only aggregated data.

A17. DISPLAY OF EXPIRATION DATE

The OMB control number and expiration date will be displayed on the data collection instruments, such as consent forms, participant questionnaires, and interview protocols.

A18. EXCEPTIONS TO THE CERTIFICATION STATEMENT REQUIREMENT

There are no exceptions to the Certification Statement in item 19 of Form 83-I.