

**1 CONSUMER FINANCIAL PROTECTION BUREAU
REQUEST FOR APPROVAL UNDER THE GENERIC CLEARANCE
COMPLIANCE COSTS AND OTHER EFFECTS OF REGULATIONS
(OMB Control Number: 3170-0032)**

PART A: JUSTIFICATION FOR THE INFORMATION COLLECTION

1. TITLE OF INFORMATION COLLECTION: Prevalence of Pre-Dispute Arbitration Agreements in Consumer Contracts in Certain Market for Consumer Financial Products and Services

2. PURPOSE: As mandated by Section 1028 of the Dodd-Frank Act, the Consumer Financial Protection Bureau (Bureau) completed a Study of pre-dispute arbitration agreements in March 2015¹. The Study analyzed a variety of issues, including the prevalence of pre-dispute arbitration agreements in certain key consumer finance markets. Subsequently, the Bureau announced in October 2015 that it is considering proposals to restrict the use of pre-dispute arbitration agreements in a number of consumer finance markets, including but not limited to those analyzed in the Study. The Bureau has convened a Small Business Review Panel to analyze these proposals pursuant to the Small Business Regulatory Fairness Enforcement Act (SBREFA).

Under the above-referenced Generic Clearance, the Bureau seeks to collect information that will enable it to develop more precise estimates of compliance costs, benefits, and other impacts of potential rules the Bureau may promulgate from entities participating in markets that would be affected by the proposals under consideration.

For this Bureau rulemaking, the agency is required under the Regulatory Flexibility Act to estimate the number of entities to which a rule will apply. To make this estimate, the Bureau must in turn estimate the proportion of market participants that use arbitration agreements. Accordingly, the Bureau seeks to ensure that its data on the frequency with which market participants use arbitration agreements is as complete as practicable. In particular, the Bureau seeks to collect qualitative information from trade associations (and if unavailable from them, from a sample of firms) in markets where the Bureau believes there is a reasonable possibility that the data developed from the Study, or from other sources, including but not limited to the SBREFA process, could be meaningfully enhanced. This would be focused on markets where the prevalence of arbitration agreements was either not analyzed in the Study or not analyzed in depth with respect to small entities. This collection is not intended to directly inform the policy decisions in the rulemaking process. The information collected under this request will supplement the information in the Study, and might help the Bureau provide at least some information, albeit not necessarily representative, for the markets where no representative information is reasonably attainable. In this regard, this additional input would give the Bureau a more nuanced understanding of costs.

3. DESCRIPTION OF RESPONDENTS: Trade Associations and Firms participating in certain markets for consumer financial products or services.

¹ See <http://www.consumerfinance.gov/reports/arbitration-study-report-to-congress-2015/>.

In particular, we plan to contact trade associations (and where necessary, firms participating) in at least some of the markets covered by the proposals under consideration. The proposals under consideration would cover the following financial products or services for consumer purposes, as defined in Dodd-Frank section 1002 and subject to the limitations in Dodd-Frank sections 1027 and 1029:

- extensions of credit by a creditor or credit card issuer under the Truth in Lending Act (15 U.S.C. 1601 et seq.) and the Bureau’s Regulation Z (12 CFR Part 1026), or by a creditor under the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) and the Bureau’s Regulation B (12 CFR Part 1002), or the brokering, servicing, acquiring, or purchasing of any such credit, extending or brokering automobile leases as defined in Bureau regulations (to be codified at 12 CFR 1090.108), or providing debt relief services for such credit or automobile leases under the Telemarketing Sales Rule (16 CFR Part 310); and
- accounts with depository institutions under the Truth in Savings Act (12 U.S.C. 4301) and the Bureau’s Regulation DD (12 CFR Part 1030) and the National Credit Union Administration’s implementing regulations (12 CFR Part 707); and
- products or services subject to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) and the Bureau’s Regulation E (12 CFR Part 1005), transmitting or exchanging funds under Dodd-Frank Act section 1002(15)(A)(iv), or check cashing under Dodd-Frank Act section 1002(15)(A)(vi); and
- obtaining information from a credit reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) for the purposes of monitoring, on behalf of the consumer, the consumer’s credit; and
- collecting debt related to any of these consumer financial products or services; and
- payment processing under Dodd-Frank Act section 1002(15)(A)(vii).

Entities participating in these markets include, but are not limited to, banks, credit unions, credit card issuers, certain auto lenders, small-dollar or payday lenders, auto title lenders, installment and open-end lenders, private student lenders, providers of other credit in certain other contexts, loan originators that are not creditors, providers of credit in the form of deferred third-party billing services, providers of certain auto leases for at least 90 days, servicers of covered credit and auto leases, remittance transfer providers, providers of domestic money transfer services or currency exchange, general-purpose reloadable prepaid card issuers, certain providers of virtual currency products and services, check cashing providers, credit service/repair organizations, debt settlement firms, providers of credit monitoring services, debt buyers, and payment processors.

4. TYPE OF COLLECTION (ADMINISTRATION OF THE INSTRUMENT):

a. How will you collect the information? (Check all that apply)

- | | |
|---|---|
| <input type="checkbox"/> Web-based or other forms of Social Media | <input checked="" type="checkbox"/> Telephone |
| <input type="checkbox"/> In-person | <input checked="" type="checkbox"/> Mail |
| <input type="checkbox"/> Small Discussion Group | <input type="checkbox"/> Focus Group |
| <input checked="" type="checkbox"/> Other, Explain <u>e-mail</u> | |

b. Will interviewers or facilitators be used?

- Yes No Not Applicable

5. PERSONALLY IDENTIFIABLE INFORMATION:

- a. **I Is personally identifiable information (PII) collected?** Yes No
- b. **If Yes, is the information that will be collected included in records that are subject to the Privacy Act of 1974?** Yes No Not Applicable
If applicable, what is the link to the Privacy Impact Assessment (PIA)?
- c. **If Applicable, has a System or Records Notice (SORN) been published?**
 Yes No Not Applicable
 If yes, cite the SORN.

6. INCENTIVES:

- a. **Is an incentive provided to participants?** Yes No
- b. **If Yes, provide the amount or value of the incentive?** \$ N/A .
- c. **If Yes, provide a statement justifying the use and amount of the incentive.**
 N/A

7. BURDEN HOURS

Collection of Information	Number of Respondents	Responses per Respondent	Number of Responses	Participation Time (hours) per response	Burden Hours
Trade association responses to structured interview calls or letter questionnaires from Bureau, including meetings with the Bureau	50.	1x.	50.	1 hour	50.
Market participant responses to structured interview calls or letter questionnaires from the Bureau, including meetings with the Bureau	200.	1x.	200.	1 hour	200.
Totals:	250	//////////	250	//////////	250

8. FEDERAL COST: The estimated annual cost to the Federal government is \$ *de minimis* (postage, to the extent any questions are mailed).

PART B: COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS OR CONDUCTING A SURVEY OF FOCUS GROUP

This information collection does not employ statistical methods.

If you are conducting a focus group, survey, or plan to employ statistical methods, please provide answers to the following questions:

1. RESPONDENT UNIVERSE AND SELECTION METHODS

- a. **Do you have a customer list or something similar that defines the universe of potential respondents and do you have a sampling plan for selecting from this universe?**
 Yes No
- b. **If the answer is Yes, please provide a description below (or attach the sampling plan). If the answer is No, please provide a description of how you plan to identify your potential group of respondents and how you will select them.**

For trade associations, we are aware of the largest associations in each industry. If we contact only some of them, we will attempt to contact the largest and the most representative one(s), which is to say, the association whose members appear likely to include the greatest number of small entities that actually provide the product or service in that market that may be subject to the Bureau rule. The Bureau understands and will note in its analyses that any anecdotal information or results of surveys that the trade association conducted but that only included the trade association's members are not necessarily representative of a market as a whole.

If necessary (for markets in which trade associations are not available or cannot provide information), then we plan to contact firms. In this case, we will randomly sample U.S. cities with replacement, based on the city's population (in other words, in a sample of 50, New York City might easily be sampled twice). Finally, using the selected cities' Yellow Pages, we will randomly select a firm to contact in that market (as an example, suppose Kansas City, MO is sampled and we are analyzing auto leasing, then we would randomly draw from the 108 matches for "auto leasing in Kansas City, MO" on yellowpages.com).

- c. **The selection of your targeted respondents. Provide a description of how you plan to identify your potential group of respondents and how you will select them.**

See above description of how we will identify potential group of respondents. We will send them an email or letter in advance of a phone call in order to determine whether they would be willing to participate in a brief phone call posing a series of questions.

2. INFORMATION COLLECTION PROCEDURES

See above.

3. METHODS TO MAXIMIZE RESPONSE RATES AND ADDRESS ISSUES OF NON-RESPONSE

N/A

4. TESTING OF PROCEDURES OR METHODS

N/A

5. CONTACT INFORMATION FOR STATISTICAL ASPECTS OF THE DESIGN

N/A

PART C: CERTIFICATIONS

CERTIFICATION PURSUANT TO 5 CFR 1320.9, AND THE RELATED PROVISIONS OF 5 CFR 1320.8(b)(3) :

By submitting this document, the Bureau certifies the following to be true:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It uses plain, coherent, and unambiguous terminology that is understandable to respondents;
- (d) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (e) It indicates the retention period for recordkeeping requirements;
- (f) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (g) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected;
- (h) It uses effective and efficient statistical survey methodology; and
- (i) It makes appropriate use of information technology.

CERTIFICATION FOR INFORMATION COLLECTIONS SUBMITTED UNDER THIS GENERIC INFORMATION COLLECTION PLAN

By submitting this document, the Bureau certifies the following to be true:

- The collection is voluntary.
- The collection is low-burden for respondents and low-cost for the Federal Government.
- The collection is non-controversial and does not raise issues of concern to other federal agencies.
- Information gathered will not be used solely for the purpose of substantially informing influential policy decisions.
- The collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the future.
- The results will not be used to measure regulatory compliance or for program evaluation.