

CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
FOR EXTENSION OF
CFPB’S CONSUMER RESPONSE INTAKE FORM
(OMB CONTROL NUMBER 3170-0011)

TERMS OF CLEARANCE:

When the Office of Management and Budget (OMB) approved this collection of information in November 2011, the OMB Notice Action noted, “Collection was modified to address use of information collected and whistleblower references provided.” These changes remain in this submission to OMB.

ABSTRACT

The Intake Form is designed to aid consumers in the submission of complaints, questions, and comments and to help the CFPB fulfill the CFPB’s statutory requirements.¹ Consumers (hereinafter "respondents") will be able to complete and submit information through the Intake Form electronically on the CFPB's website. Alternatively, respondents may request that the CFPB email a fillable PDF version or, by telephone, request a "paper" copy of the Intake Form, and then email, mail, or fax it to the CFPB. The questions within the Intake Form prompt respondents for a description of, and key facts about, the complaint at issue, the desired

¹ OMB Control No. 3170-0011 (“Consumer Response Intake Form”). Originally approved as a Department of Treasury/Department Offices form (1505-0241), this approved information collection was transferred to the CFPB on November 21, 2011. ICR Reference Number 201111-3170-004; *see* Pub. L. No. 111-203, Title X, Sections 1013(b)(3), 1021(c)(2), and 1034, codified at 12 U.S.C. §§ 5493(b)(3), 5511, and 5534.

resolution, contact and account information, information about the institution they are filing a complaint against, and any previous action taken to attempt to resolve the complaint.

INTRODUCTION

On November 18, 2011, the OMB approved the CFPB's Consumer Response Intake Form (Intake Form), an information collection that has helped the CFPB facilitate the centralized collection of, monitoring of, and response to consumer complaints and inquiries about consumer financial products or services.² Followed shortly by the launch of the credit card and mortgage consumer complaint forms, the Bureau has since expanded its Intake Form to provide for complaints about: bank accounts and services, private student loans, other consumer loans, credit reporting, money transfers, debt collection, payday loans, and, most recently, prepaid cards.³ The CFPB has received more than 400,000 consumer complaints to date, an achievement for which the Intake Form has been instrumental.

Two years later, in November 2013, the OMB approved a generic clearance authority for the CFPB's Office of Consumer Response (Consumer Response) and its collections of information including (1) testing new and improved Intake Form questions⁴ and (2) gathering related information needed for appropriate referral of complaints, and (3) conducting user experience feedback surveys.⁵

This submission requests that the CFPB be granted (1) approval of revisions to the existing clearance that improve upon the form's clarity and utility (as informed by the CFPB's three-year information collection undertaking and feedback gathered from the generic clearance) and (2) a three-year extension.

² See *supra* note 1.

³ Web versions of the Intake Form available online at <http://www.consumerfinance.gov/complaint/>.

⁴ In particular, the OMB approved Consumer Response's ability to pilot new and improved questions on the Consumer Response Intake Form (Intake Form). OMB Control No. 3170-0011. Originally approved as a Department of Treasury form (OMB Control No. 1505-0241), this approved information collection was transferred to the CFPB on November 21, 2011. ICR Reference Number 201111-3170-0004.

⁵ OMB Control No. 3170-0042.

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

Collecting, investigating, and responding to consumer complaints⁶ are integral parts of the CFPB's work.⁷ Not only is this work required of the Agency under the Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"), this work also helps the CFPB fulfill its obligations to: (1) monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in the markets for such products or services; and (2) provide an annual report to Congress on complaints received in the prior year regarding such products and services, including information about complaint numbers, types, and resolution.⁸ The Intake Form, the subject of this information collection request, provides the vehicle for the information collection by web, telephone, mail, email, and fax.

2. Use of Information

The Intake Form is designed to aid the public in the submission of complaints, inquiries, and feedback to the CFPB and to help the CFPB fulfill the aforementioned statutory requirements. Individuals who wish to submit complaints, inquiries, and feedback (collectively, respondents) may submit relevant information using the CFPB's website where they will find online versions of the Intake Form. Alternatively, respondents may submit information by telephone, mail, email, and fax using the Intake Form. The Intake Form's various fields prompt respondents for a description of, and key facts about, their complaints, underlying products and issues, the companies that are the subject of their complaints, and any previous action taken on their complaints. Responses to the Intake Form's questions help provide the CFPB with the information needed to reach out to the consumer, consumer's authorized representative (if applicable), and company; and to follow-up on the submitted complaint, inquiry, or feedback.

3. Use of Information Technology

⁶ Consumer complaints are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service.

⁷ See Dodd-Frank Act, Pub. L. No. 111-203, Section 1021(c)(2).

⁸ *Id.* § 1022(c); *Id.* § 1013(b)(3)(C).

The CFPB has created, and will continue to improve, a system that provides consumers and their authorized representatives with the ability to submit their complaints, inquiries, and feedback, electronically on the Bureau's website. The CFPB will continue to use enhancements such as drop down menus, error checks, and auto-completion when possible to minimize burden. The CFPB's U.S.-based contact centers provide services to consumers in more than 180 languages and to consumers who are deaf, have hearing loss, or have speech disabilities via a toll-free telephone number.

4. Efforts to Identify Duplication

This information collection extension request does not seek to duplicate any other Complaint System being developed by other Federal or State agencies. The information collections proposed will improve the processing of individual consumer complaints and inquiries by the CFPB. Duplication is further minimized as all CFPB information collections are considered and reviewed through an internal clearance process which includes several offices within the Agency, including the CFPB's Office of the Chief Information Officer.

5. Efforts to Minimize Burdens on Small Entities

The information collection is voluntary and is not anticipated to burden small businesses significantly. The Intake Form does not require information collection from small businesses or other small entities. The only potential impact on small entities is that the CFPB, *as required by law*, will utilize the information obtained from respondents to request responses from, and potentially initiate investigations of, entities named in the complaints, some of which may be small entities.

The CFPB is also tasked with enforcing certain Federal laws that are intended to ensure fair, equitable, and nondiscriminatory access to credit, such as the Equal Credit Opportunity Act ("ECOA"). In some cases, these laws apply to non-consumer, commercial lending. Small business owners may use the Intake Form to submit fair lending complaints to the CFPB.

The CFPB will minimize any burden by requesting readily available information and using plain, short, easy-to-complete information collection instruments.

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

Under Dodd-Frank, the CFPB is required to facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services. The proposed collection is voluntary and if the proposed collection is not conducted, the CFPB would not be able to fulfill its consumer response mandate.

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 published a notice Federal Register allowing the public 60 days to comment on the proposed extension of this currently approved collection of information. The Bureau received three (3) comments in response to this notice. The comments, including the Bureau's response to these comments, are summarized below and comments are attached hereto. Further and in accordance with 5 CFR § 1320.5(a)(1)(iv), the Bureau published a notice in the Federal Register allowing the public 30 days to comment on the submission of this information collection request to OMB.

The Bureau received 3 comments in response to the notice, 2 of which were responsive. Comments included the following entities: the National Association of the Retail Collection Attorneys ("NARCA"); and the Association of Credit and Collection Professionals ("ACA").

Two comments received recommend a more explicit consumer option on the Intake Form to share a positive interaction he or she has had with a financial institution. The Bureau finds the consumer stories and data regarding all types of interactions with financial institutions to be extremely valuable. Currently, consumers are able to share their stories of their interactions with financial institutions with the Bureau through our online Tell Your Story form. The Bureau understands the importance of this type and has taken this recommendation under advisement with a Request for Information issued in March 2015.⁹

Two comments expressed concerns with Intake Form data quality, including the addition of natural language processing to the Intake Form. When the technology is applied consistently and equitably, natural language processing can enhance data quality and reduce the burden of the Intake Form on the user. The future inclusion of natural language processing on the Intake Form is viewed as a complement to the consumer's experience. Concerns expressed over data accuracy, such as consumers selecting the first option or "other" for convenience, will be allayed through consumer testing and iterative improvements to the technology. Similarly, Intake Form web features such as drop-down menus, error checks and auto-complete fields are monitored and tested with consumers to ensure the quality, utility and clarify of the information to be collected.

⁹ See Attachment 3 – Request for Information

One comment recommended maintaining the current Intake Form order of having a consumer select a product and then an issue before typing a complaint narrative, hypothesizing that this orients the consumer and creates a more focused narrative. To date, results from the Bureau’s usability tests on the Intake Form have supported this conclusion. Therefore, this portion of the Intake Form has not been changed.

Through the use of a Generic Clearance, the CFPB has developed customized consumer surveys about mortgages, credit cards and student loans, and conducted form usability testing.¹⁰ Along with experiential data gathered over the past three years, feedback from the public has informed improvements to the Intake Form, including collecting additional information about co-borrowers and co-signers, gathering college and university information from student loan complainants, and enhancing privacy features through the use of security questions.¹¹

9. Payments or Gifts to Respondents

The proposed information collections do not provide any payment or gift to respondents.

10. Assurances of Confidentiality

All information collection activities will be conducted in full compliance with the requirements for the protection of the confidentiality of nonpublic information and personally identifiable information and for data security and integrity set forth in the federal privacy laws, including the CFPB’s rules (12 C.F.R. § 1070 et seq.) of the Privacy Act (5 U.S.C. § 552a).¹² At the point of information collection, the CFPB’s website will explain that personally identifiable information will be kept confidential to the extent permitted by law and CFPB rules. The CFPB website privacy policy will further explain the CFPB’s privacy practices. For complaints submitted through a CFPB call center, complainants will be told that their personally identifiable information will be kept confidential subject to the law and CFPB rules. Telephone

¹⁰ Generic Clearance for Consumer Complaint and Information Collection System (Testing and Feedback), OMB Control Number 3170-0042.

¹¹ See Attachment “Inventory of Questions for the Consumer Financial Protection Bureau’s Consumer Assistance Form.”

¹² For the related System of Record Notice (SORN), see <https://www.federalregister.gov/articles/2014/04/16/2014-08555/privacy-act-of-1974-as-amended>.

complainants who so elect will be read the CFPB's Privacy Act statement¹³ or will be guided to the CFPB website for the same.

The CFPB will implement the appropriate security measures to ensure data is safeguarded including the use of locked file storage, confidentiality stamping, restricted system access, data encryption, restricted print options and disposal by cross-cut shredding. The information system will be fully compliant with the Federal Information Security Management Act of 2002 with the security category of "Moderate, Moderate, Low."

On March 20, 2013, CFPB published a Privacy Impact Assessment (PIA) for the Consumer Response System. Pursuant to Office of Management and Budget (OMB) Memorandum 07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007, CFPB uses PIAs to document how the personally identifiable information (PII) it collects is used, secured, and destroyed in a way that protects each individual's privacy. Each PIA is broken out into sections that reflect the CFPB's Privacy Principles. The CFPB's Privacy Principles are a set of nine rules the CFPB follows when it collects or uses PII. The PIA is posted

¹³ Privacy Act Statement quote:

The information you provide will permit the Consumer Financial Protection Bureau to process your complaint or inquiry Information about your complaint or inquiry (including your personally identifiable information) may be shared:

- with the entity that is the subject of your complaint;
- with third parties as necessary to get information relevant to resolving a complaint;
- with a court, a party in litigation, a magistrate, an adjudicative body or administrative tribunal in the course of a proceeding, or the Department of Justice;
- with other federal or state agencies or regulatory authorities for enforcement and statutory purposes; and
- with contractors, agents, and others authorized by the CFPB to receive this information.

We may also share your complaint or inquiry (but not your personally identifiable information) with the public through a public complaint database.

This collection of information is authorized by 12 U.S.C. § 5493.

You are not required to file a complaint or share any identifying information, including your Social Security number, and you may withdraw your complaint at any time. However, if you do not include the requested information, the CFPB may not be able to process your complaint.

on CFPB’s website at http://files.consumerfinance.gov/f/201303_CFPB_PIA-Consumer-Response-System.pdf.

Additionally, in accordance with the Privacy Act of 1974, as amended, published a Systems of Records Notice (SORN) in the Federal Register (79 FR 21440, April 16, 2014). The title for the SORN is CFPB.005—Consumer Response System. The SORN is available on the Internet at <https://www.federalregister.gov/articles/2014/04/16/2014-08555/privacy-act-of-1974-as-amended>.

Section 1057 of the Dodd-Frank Act provides additional protections for “whistleblowers” who work for covered persons or service providers and who experience employer retaliation after providing certain information about their employers to the CFPB. The CFPB will take all reasonable steps as permitted by law during this information collection process to provide distinct, alternative paths for their complaint submissions. Whistleblowers who are employees of the financial institution they are complaining about will receive a copy of the relevant Dodd-Frank Act anti-retaliation provision, Section 1057, and will be provided with a set of Section 1057 FAQs which explain the whistleblower retaliation protections.¹⁴

11. Justification for Sensitive Questions

Complaint intake questions may prompt the respondents for sensitive information such as credit card account or other financial account numbers only to facilitate complaint resolution and to minimize the burden of follow-up contact with the respondents. For instance, for credit card inquiries or complaints, certain account information such as a credit card number may be the most effective way to accurately identify the company. For inquiries directed to the national credit reporting bureaus and other financial services providers that use Social Security numbers as primary identifiers, consumers will be asked to provide their Social Security numbers (SSNs) in order to process their complaint. Oftentimes, it is the only effective way for certain respondents to accurately locate the consumer’s relevant financial information. Consumers’ SSNs, along with other sensitive financial account identifiers, will be held in an encrypted system for their protection.

The CFPB is tasked with enforcing fair lending laws such as the Equal Credit Opportunity Act (“ECOA”). ECOA prohibits unlawful discrimination by any creditor against an applicant in a credit transaction based on race, color, religion, national origin, sex, marital status, or age. ECOA also prohibits such unlawful discrimination by a creditor based on the fact that all or part

¹⁴ Attachment 2.

of the applicant’s income derives from any public assistance program or based upon the applicant’s good faith exercise of any right under the Consumer Credit Protection Act. For these reasons, complaint intake questions may inquire about these factors.

In addition, Section 1013(e)(1)(A) of the Dodd-Frank Act specifically charges the CFPB with the task of monitoring complaints by servicemembers and their families. Thus, the Intake Form includes a series of questions to help identify and correctly route such complaints.

Finally, the Intake Form includes an optional question which prompts the respondent for his or her age. Pursuant to the Credit Card Accountability Responsibility and Disclosure Act of 2009 (“CARD Act”), there are several statutory protections extended to underage credit card applicants and account holders.¹⁵ Eliciting the respondent’s age will help identify issues related to young consumers and legal competency to give consent. Furthermore, the Equal Credit Opportunity Act (“ECOA”) makes it unlawful for any creditor to discriminate against an applicant for credit on the basis of age. Collecting information about the respondent’s age will help identify instances where Older Americans have been discriminated against when applying for credit.

12. Estimated Burden of Information Collection

Type of Information Collection	Estimated Number of Respondents	Estimated Number of Intakes per Respondent	Average Burden per Intake	Estimated Total Annual Burden Hours Requested
Web	2,250,000	1	7 minutes	262,500
Paper/Telephone	750,000	1	10 minutes	125,000
Total	3,000,000	<i>//////////</i>	<i>//////////</i>	387,500

The web-based Intake Form will take approximately seven minutes to complete. Complaints from respondents who wish to provide additional details and more complicated complaints may take longer to complete.

¹⁵ 15 U.S.C. § 1637(c).

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 Cost to the Federal Government

Based on an independent government cost estimate, including the cost of call center operations, software, and hardware, the estimated annualized cost for this information collection is \$16,035,342.

15. Program Changes or Adjustments

None.

16. Plans for Tabulation, Statistical Analysis, and Publication

Data collected through complaint intake, inquiry and feedback collections will be analyzed and may be disclosed through the CFPB's Consumer Complaint Database¹⁶ and provided in annual reports to be issued by the CFPB to Congress. In particular, under Section 1013(b)(3)(c) of the Dodd-Frank Act, the CFPB provides reports to Congress containing information and analysis about complaint numbers, types, and where applicable, resolution. The CFPB may publish trend reports based on aggregate data in summaries, reports, and briefings. Presentations of analyses may include frequency, classification, and cross-tabulation across consumer financial products or services, demographic and economic characteristics, and financial management behavior.

17. Display of Expiration Date

The expiration dates for OMB approval will be displayed on the complaint intake instruments as well as in OMB's public-facing docket at www.reginfo.gov.

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.

¹⁶ 78 Fed. Reg. 21218, available at <https://www.federalregister.gov/articles/2013/04/10/2013-07569/disclosure-of-consumer-complaint-data>.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods. Due to the limitations of the proposed voluntary information collections, most importantly the absence of randomized sample selections, the responses will not be representative of any larger group. Because any aggregate results of the proposed information collections will not be statistically valid representations of a larger group, and are not meant to be, statistical methods cannot reduce or improve the accuracy of results.

Attachment 2 - Section 1057 FAQs for Whistleblowers

If you perform work related to a bank or other consumer financial service provider and you report a possible violation of consumer financial protection laws, you may be protected from employment retaliation under [Section 1057](#) of the Dodd-Frank Act Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”). Anti-retaliation provisions such as Section 1057 are commonly referred to as “whistleblower” protections.

Who is entitled to protection under Section 1057?

Section 1057 protects from retaliation persons who perform work related to a bank, credit card company or other consumer financial service provider and who, in the course of their work or on their own initiative, “blow the whistle” on their employers in any of the following ways:

- By providing to their employer, the Consumer Financial Protection Bureau (CFPB), or any other state, local, or federal law enforcement or regulatory agency information relating to potential violations of any law subject to the jurisdiction of the CFPB;
- By testifying or agreeing to testify in any proceeding resulting from the administration or enforcement of the Consumer Financial Protection Act (Title X of the Dodd-Frank Act) or any other law subject to the jurisdiction of the CFPB, or any rule, order, standard, or prohibition established by the CFPB;
- By filing, instituting, or causing to be filed or instituted any lawsuit, arbitration, or other proceeding under any federal consumer financial law; or
- By objecting to or refusing to participate in any activity, policy, practice, or assigned task that the employee reasonably believes may violate any law subject to the jurisdiction of the CFPB.

How do I know if I am an employee protected by Section 1057?

Section 1057 defines protected employees as individuals who perform tasks related to offering or providing a consumer financial product or service. Such products or services may include, but are not limited to, loans, refinancing, check-cashing, credit cards, and debt or credit rating, counseling or assistance.

What protections does Section 1057 provide?

Section 1057 prohibits employer retaliation against employees or representatives for reporting potential violations of consumer financial protection laws. Specifically, Section 1057 prohibits

employers from terminating or otherwise retaliating against whistleblowers who alert law enforcement or regulators to their companies' potential violations.

Will the CFPB keep my identity confidential?

If you do not wish to disclose your identity to the CFPB when reporting your information, you may remain anonymous. However, disclosing your identity and contact information will facilitate the CFPB's investigation of your concerns and successful remediation and/or correction of any illegal conduct.

What are examples of illegal retaliation against an employee who is a "whistleblower"?

Your employer may be found to have violated Section 1057 by retaliating against you if your whistleblowing was a contributing factor in your employer's decision to take adverse action against you. Such actions may include:

- Firing or laying off
- Blacklisting
- Demoting
- Denying overtime or promotion
- Disciplining
- Denying benefits
- Failing to hire or rehire
- Intimidation
- Making threats
- Reassignment affecting promotion prospects
- Reducing pay or hours

What should I do if I believe my employer retaliated against me?

You have a right to file a complaint with the U.S. Department of Labor through your local Occupational Safety and Health Administration (OSHA) Regional Office within 180 days after

your termination or other adverse action. Visit the Department of Labor’s website, www.whistleblowers.gov, for instructions on how to file a complaint and find the address of the federal OSHA Regional Office nearest you. You may, if you wish, also consult a private attorney, who can advise you of additional rights you may have.

What compensation is available if I win a retaliation claim against my employer?

Your possible remedies under Section 1057 include reinstatement to your former position, recovery of any back pay, compensatory damages, and attorney and expert witness fees.

As a condition of employment, I had to sign a waiver of my right to file a retaliation claim or agree to submit to mandatory arbitration. Do I still have a right to file a retaliation claim?

Generally, yes. You should consult a private attorney to find out more about your rights.

Attachment 3 – Request for Information Regarding the Consumer Complaint Database, March 2015