

**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: Small Business Compliance Cost Survey

2. PURPOSE: Under Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Equal Credit Opportunity Act was amended to require financial institutions, subject to a regulation to be issued by the Bureau of Consumer Financial Protection (the Bureau), to compile, maintain, and report to the Bureau certain information about applications for credit made by women-owned, minority-owned, and small businesses. Section 1071 includes 13 statutorily-mandated data points, and permits the Bureau to require additional data points that would serve the purposes of the section.

The objective of this survey is to solicit, from institutions offering small business credit products that could potentially be covered by this rule, information about potential one-time costs to prepare to collect and report data, and also on potential responses to higher compliance costs. This survey does not cover potential on-going costs from actually collecting and reporting data.

3. DESCRIPTION OF RESPONDENTS: The respondents will be banks, credit unions, non-depositories offering merchant cash advances, = equipment financiers (including bank-affiliated, captive, and independent financiers), and other non-depository online lenders.

4. FEDERAL REGISTER NOTICE CITATIONS:

- a. **60-day *Federal Register* Notice** 84 FR 26078 **Date:** 06/05/2019
- b. **30-day *Federal Register* Notice** 85 FR 3036 **Date:** 01/17/2020
- c. **Comments received in response to the 30-day Notice:** Yes No
- d. **If yes, summarize the comments and the Bureau's response to those comments:**

The Bureau received 5 comments in response to the 30-day Federal Register notice soliciting public feedback on this survey. Nearly all of the public comments were in favor of an additional industry survey aimed at estimating ongoing costs. The Bureau has considered using this method for ongoing costs, but decided to use other methods to estimate ongoing costs. For this survey, the Bureau decided that it should be only focused on one-time costs to increase simplicity, reduce length, and increase the response rate among the relevant institutions.

Independent Community Bankers of America (ICBA) Comment: Most of this comment focused on broader 1071 commentary and their desire for the CFPB to study costs and benefits as closely as possible. Their four recommended areas for further analysis specific to the survey included: Staffing Issues unique to community banks, Adoption of new IT systems and forms, Potential elimination of "high-touch" relationship underwriting and Consumer re-identification risk. The

survey already contains questions that address the first two points (Question 10 and Questions 11/12). The third is related to question 17 which deals with institutional responses to the 1071 rulemaking. We included an additional response to this question that gets at the reduction of high-touch relationship lending as a result of the 1071 rulemaking. The fourth is out of the scope of the survey instrument and the costs and benefits work more generally and a concern with regards to consumer privacy. ICBA is generally in favor of further survey collection to help the Bureau's consideration of costs and benefits.

Credit Union National Association (CUNA) Comment: This comment encouraged the CFPB to make sure to engage specifically with Credit Unions, as well as encouraged an ongoing costs survey and a carve-out of Credit Unions. Other comments related more generally to the rulemaking that are not applicable to the one-time costs survey. This comment was in favor of the survey collection.

National Association of Federally-Insured Credit Unions (NAFCU) Comment: A majority of this comment was out of scope of the 1071 one-time costs survey, including commentary of Credit Union carve-outs, convening the SBREFA panel, and responsiveness to RFI concerns. NAFCU's recommendations that the survey include a question on the benefits of this rulemaking to credit unions is out of scope of the one-time costs survey. The Bureau is using other analyses to assess the benefits of the rulemaking. NAFCU also suggested adding a question about pass-through costs in response to the rule. Question 17 allows an opportunity for respondents to share how they might respond if covered by the rule. Overall, NAFCU's comment was in favor of the survey collection and encouraged further survey collections.

Equipment Leasing and Finance Association (ELFA) Comment: Recommended having more clarity in policy decisions regarding the reporting structure, firewall, and reporting universe prior to distributing the survey. Providing information on policy decisions would create more effective one-time cost estimates. This is not possible, however, since the intent of this survey is to gather information on potential one-time costs that will then help inform policy decisions. ELFA's raising of the firewall prompted an addition regarding the reporting structure within the Background Section allowing the respondents to assume a reporting structure similar to HMDA, as to better gauge costs.

American Banking Association (ABA) Comment: ABA provided a number of substantive comments on the design of the survey. Generally, ABA is in favor of this collection and further surveys aimed at estimating costs for institutions. The below responses to their comments go by section.

Background: The Bureau had previously held discussions with third-party vendors and did not glean much relevant information on the potential one-time costs from those conversations, because they were unable to provide cost estimates without knowing what the rule required. Thus, we do not believe that surveying these vendors would be currently helpful, however we are strongly considering softer interviews of third-party vendors to supplement information gathered from the surveys. Regarding the time spent on the survey--the 30 minutes estimate originally on the survey is appropriate for smaller institutions. For larger, more complex institutions we feel that up to five hours is appropriate. We have adjusted the total time spent to reflect an average of 2 hours and the time to complete will depend on the complexity of the institutions. We have also changed the definition of small business loans to better address the ABA comment regarding small business financing. Replying to an ABA and ELFA comment on the firewall, the Bureau decided to exclude any costs related to firewall implementation from the survey. Corresponding with a different ABA comment, we have added clarity regarding the appropriate definition of an application in accordance with Regulation B.

Question 1: The broader suggestions of institution type can be encompassed within the “Other” option. The suggestion that the respondent provides additional explanation if an institution selected e, g, or j would result in increased difficulties in interpretation of these explanations that would not be easy to incorporate in the results. The Bureau did agree with the ABA suggestion regarding “select all that apply” in order to accommodate the complex nature of certain financial institutions. We have also eliminated the institution focused on offering factoring option in order to better correspond with the ABA comment.

Question 2: To address ABA’s comment about giving respondents the option of choosing a \$1 million revenue threshold, we added text boxes accompanying the “other” categories to allow respondents to specify and the levels of these definitions. Additionally, we decided against eliminating the “any other single definition that would allow you to respond” language as we believe that this allows the maximum response rate for institutions, however the Other category encompasses a wide range of definitions that financial institutions utilize. We also added the reference to the appendix that ABA suggested for total exposure.

On Question 3: We added the same description of small business financing that is included within the Background Section.

Question 4: To address this comment we added a portion of the Background “for purposes of this survey please assume the Regulation B definition of an application” from the Background Section that clarifies this comment.

Question 7: We have provided definitions for the level of automation that we believe reasonably explain the confusion in differentiating between the levels of automation. We did not take the suggestion regarding estimates on the number of systems that would be impacted by the 1071 data collection. Utilizing this additional information to estimate costs would be dependent on the complexity of the system and labor costs and we believe would be better estimated within question 12.

Question 10: We have added additional explanations for each of these tasks in line with the suggestion by ABA.

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

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

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

b. Will interviewers or facilitators be used?

- Yes No Not Applicable

5. PERSONALLY IDENTIFIABLE INFORMATION:

a. 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)?
https://files.consumerfinance.gov/f/documents/20161101_cfpb_Industry_Expert_Community_Input_and_Engagement_PIA.pdf
- c. **If Applicable, has a System or Records Notice (SORN) been published?**
 Yes No Not Applicable
 If yes, cite the SORN: CFPB 22 Market and Consumer Research Records (83 FR 23435)

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 (Frequency)	Number of Responses	Participation Time (hours)	Burden Hours
Electronic Survey Form	120	1	120	2	240

8. FEDERAL COST: There will be no federal costs associated with this data collection. The survey is being developed and will be conducted using existing Bureau staff and resources. Therefore, this collection of information will not result in any new costs to the Bureau.

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

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.**

The Bureau has divided the universe of potential institutions covered under Section 1071 into six different groups: banks, credit unions, non-depositories offering merchant cash advances, equipment financiers (including bank-affiliated, captive, and independent financiers), and other non-depository online lenders. The Bureau will identify potential respondents by contacting trade organizations representing institutions within each of these groups. While we have access to lists of institutions for banks and credit unions and some information about the products they offer, this information is not complete.

- 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.**

The Bureau will request data from around 120 institutions in each of the six groups, targeting small, medium, and large respondents (based on number of small business loans originated per year) within each group. The Bureau expects a response rate of around 20%. This estimate is based on RMR's judgment from past collections that included relatively small participants.

Although the Bureau will not be contacting a representative sample of small business lenders, the target response rate represents a reasonable target for social science research.

2. INFORMATION COLLECTION PROCEDURES

The Bureau will be sending selected small business lenders a letter requesting a participation decision. The request will also be accompanied by a letter from the Bureau signed by the research team lead describing the survey's purpose. Respondents will provide data to the Bureau electronically or through interviews (conducted by phone or video conference).

The Bureau will not use the provided data to make statistical claims about the small business lending market, but will aggregate selected responses and present descriptive statistics attributed to small business lenders that responded to the Bureau's data request.

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

The Bureau held preliminary calls with several small business lenders and trade groups in connection with designing the questionnaire and gauging the burden of answering it. Based on these conversations, the Bureau believes that it has minimized potential burden on small business lenders in an effort to maximize the rate at which they respond to the survey.

The Bureau does not believe that this information collection will result in a representative sample of all small business lenders. As in previous rulemakings, the Bureau is prepared to aggregate all voluntarily shared data with the qualification that the data only reflect firms that voluntarily provided information to the Bureau. This information collection will inform, but not serve as the sole source of information on the rulemaking to implement Section 1071.

4. TESTING OF PROCEDURES OR METHODS

The Bureau held informal, unstructured calls with several lenders and trade groups regarding the potential data request. Lenders generally said they could offer these data with a small amount of burden. In addition, the Bureau tested the survey instrument with seven institutions. The test consisted of both electronic surveys and phone calls with lenders. Test results informed changes the Bureau made to an initial draft of the survey. The Bureau received comments from five trade associations and modified the survey instrument to make it easier for their members to respond.

In general, the Bureau has found that small business lenders are willing and able to produce data to help inform the Section 1071 rulemaking.

5. CONTACT INFORMATION FOR STATISTICAL ASPECTS OF THE DESIGN

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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.

