

**BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
1INFORMATION COLLECTION REQUEST**

SUPPORTING STATEMENT PART A

REQUEST FOR AN ADVISORY OPINION

(OMB CONTROL NUMBER: 3170-XXXX)

OMB TERMS OF CLEARANCE: This is a request for a new OMB Control number for a new collection; therefore, there are no terms of Clearance.

ABSTRACT:

The Bureau of Consumer Financial Protection (“CFPB” or “Bureau”) is proposing to establish an Advisory Opinion (AO) program. AOs issued under the proposed program would be interpretive rules under the Administrative Procedure Act (APA) that respond to a specific need for clarity on an interpretive question regarding a CFPB-administered regulation or statute. The Federal Register notice inviting public comment on the proposed program lays out the process for submitting a request by an AO. Under the program, parties would be able to request interpretive guidance, in the form of an AO, to resolve regulatory uncertainty. The Bureau would have discretion to decide to which AOs to respond. The Bureau intends to publish AOs as well as a description of the incoming request. The requests for an AO, and thus the information collection, may be submitted by persons, primarily business or other for-profit entities. The information collected will be used by the Bureau to determine whether to pursue the issuance of an AO responsive to the request.

JUSTIFICATION

1. Circumstances Necessitating the Data Collection

Section 1022(c)(4)(A) of the Dodd-Frank Act authorizes the Bureau to “gather information from time to time regarding the organization, business conduct, markets, and activities of covered persons and service providers.” The voluntary information collection associated with the AO program supports the Bureau’s implementation through rulemaking and guidance of Federal consumer financial law. The Proposed AO Policy provides a voluntary process for persons to request AOs from the Bureau on interpretive questions, subject to specified conditions and limitations. Section II specifies information to be submitted by requestors, and it is this information that is the subject of this information collection request. Section II further lays out

factors the Bureau intends to consider in evaluating AO requests, selecting AO requests for response, and prioritizing among selected requests. The Bureau intends to use the collected information to evaluate requests for AOs. Issuance of AOs under the program would be at the discretion of the Bureau.

2. Use of the Information

Information will be collected from persons who request AOs from the Bureau under the AO program. It will be used by the Bureau to determine whether it should pursue the issuance of AOs responsive to such requests. The Bureau intends to use the information collected to evaluate AO requests, select AO requests for response, and prioritize among selected requests. The Bureau intends to publish, on its website, certain information related to AOs issued under the AO program. Public disclosure of any other information regarding AOs issued under the AO program is governed by applicable law, including the Bureau's rule on Disclosure of Records and Information.¹

3. Use of Information Technology

The AO program permits and encourages requests to be submitted electronically.

4. Efforts to Identify Duplication

Informal inquiries, regarding areas of regulatory uncertainty, have been received by the Bureau from outside parties. However, formal requests for AOs through the AO program are not currently collected by the Bureau. Formal AO requests must meet certain criteria, outlined in the Federal Register notice, that general regulatory guidance inquiries do not. Other agencies with AO programs may collect similar information, but the AO program, and information collected in support of that program, is limited to statutes and regulations under the Bureau's purview. Further, entities that submit informal inquiries to the Bureau may not anticipate that the Bureau will reference their inquiry specifically when responding. Under the AO policy, formal AO requests may be published, and thus, requestors will have an understanding that a summary of their request may be made public.

5. Efforts to Minimize Burdens on Small Entities

The program is intended to relieve regulatory burden by providing regulatory clarity on interpretive questions. The information to be collected represents the minimum amount of information needed to make a decision on a formal request under the AO program. The Bureau does not anticipate that the information requested for a formal AO request will be burdensome for small entities. Further, the policy allows for larger trade associations, law firms, or other larger organizations to submit questions on behalf of smaller entities.

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

This information collection is voluntary and only applies to those persons/entities who wish to request an AO. There is no requirement on any party to submit such a request. There is no meaningful way for the Bureau to conduct the collection less frequently.

¹ See 12 C.F.R. Part 1070.

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 C.F.R. §1320.5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 C.F.R. §1320.8(d)(1), the Bureau published a Federal Register notice allowing the public 60 days to comment on this proposed new collection of information. Comments from 16 organizations were received, but the comments were not specific to the PRA and are summarized and discussed in the preamble of the final policy. Most commenters were industry trade groups corporations and a few non-profit organizations. Commenters were generally supportive of the effort and suggested ways it could be expanded. The Bureau also consulted with several other agencies that have existing advisory opinion programs during the development of the AO program.

9. Payments or Gifts to Respondents

No payments or gifts are provided to respondents.

10. Assurances of Confidentiality

Information submitted may qualify as confidential information under the Bureau’s rule on Disclosure of Records and Information.²

11. Justification for Sensitive Questions

This information collection does not include questions of a sensitive nature.

12. Estimated Burden of Information Collection

Exhibit 1: Burden Hour Summary

Information Collection Requirement	No. of Respondents	Type of IC	Frequency	Annual Responses	Average Response Time	Annual Burden Hours	Hourly Rate	Hourly Costs
Advisory Opinion request	100	Reporting	Once per request	100	60 hours	6,000	\$52.50 ³	\$315,000
Totals:	100	//////////	//////////	100	//////////	6,000	//////////	\$315,000

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

There are no ongoing costs associated with this information collection.

² See *supra* note 1.

³ Average hourly rate for an attorney per the Bureau of Labor Statistics current report: https://www.bls.gov/oes/current/oes_nat.htm

14. Estimated Cost to the Federal Government

The Bureau will not incur any new or additional costs as a result of this collection of information.

15. Program Changes or Adjustments

This is a new information collection request; therefore, all the burden (see Item 12) is considered a program change.

16. Plans for Tabulation, Statistical Analysis, and Publication

There are no plans to perform or publish tabulations or statistical analysis of collected information.

17. Display of Expiration Date

The Bureau plans to display the expiration date for OMB approval of the information collection in the final policy / procedural rule as well as in regulations.gov.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 C.F.R. § 1320.9, and the related provisions of 5 C.F.R. § 320.8(b)(3), and is not seeking an exemption to these certification requirements.

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