



November 9, 2012

By electronic delivery to:

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Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, D.C. 20552
Attention: PRA Office

Office of Management and Budget
New Executive Office Building
Room 10235
Washington, D.C. 20503
Attention: Ms. Shagufta Ahmed

Re: Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulation; OMB Control Number 3170-XXXX

Ladies and Gentlemen:

The American Bankers Association¹ and the Consumer Bankers Association,² (collectively, the Associations) submit this comment in response to the Bureau of Consumer Financial Protection's (Bureau) request for a generic clearance for collection of information on compliance costs and other effects of regulations (the Notice).³

As stated in our August 13, 2012, comments on the Bureau's initial Paperwork Reduction Act (PRA) filing, the Associations support and encourage the Bureau's effort to gather information and data on compliance costs and other effects of existing and proposed regulations. However, we reiterate our concerns about the use of an expedited, "generic" clearance. As previously discussed, the information to be collected is fundamental to substantive rulemaking; therefore

¹ ABA represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its two million employees. The majority of ABA's members are banks with less than \$165 million in assets.

² The Consumer Bankers Association (CBA) is the only national financial trade group focused exclusively on retail banking and personal financial services — banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members include the nation's largest bank holding companies as well as regional and super-community banks that collectively hold two-thirds of the total assets of depository institutions.

³ 77 Fed. Reg. 61579 (October 10, 2012).

[T]he information collection must follow a more structured, comprehensive, and transparent solicitation of input. It must enable interested industry members and representatives to identify and respond to the compliance cost inquiries in a timely and adequate way, enabling the Bureau to conduct its cost and benefit analyses in a fulsome and transparent manner ... and the industry must be afforded the opportunity to make a meaningful contribution to the collection across a range of formats and venues that will ensure accurate and representative data is collected.⁴

The Bureau's submission to the Office of Management and Budget (OMB) underscores the inappropriateness of a generic clearance. The Bureau's own description of the intended "Use of the Information" clearly demonstrates that the information and data to be collected will have significant substantive and policy implications. It states they will:

- Inform the Bureau's various rulemaking initiatives announced in the Bureau's regulatory agenda, most of which concern the mortgage industry;
- Inform other potential rulemakings specifically required or authorized by the Dodd-Frank Act;
- Inform the Bureau's perspective on the appropriate approach to regulation of various industries in its jurisdiction, such as short-term credit products in various forms, debt collection, and consumer reporting;
- Supplement available information used for mandated analyses that the Bureau is required to perform for potential new rules, such as cost-benefit analyses required under section 1022 of the Act, the Regulatory Flexibility Act, and the Paperwork Reduction Act;
- Review impacts of the rules the Bureau inherited from other agencies;
- Perform reviews of significant new rules the Bureau adopts, as the Bureau is generally required to do within five years; and
- Develop new tools and solutions, such as compliance guides, that can help Providers more easily implement and maintain compliance systems for consumer financial regulations.⁵

Moreover, although the Notice recites that the Bureau intends to use a variety of information collection methods including "structured interviews, focus groups, conference calls and written

⁴ See ABA and CBA comment letter, Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulations, August 13, 2012, *available at* http://www.cbanet.org/documents/Comment%20Letters/081412_CFPB_GenericComplianceCostsAndOtherEffectsOfRegulations.pdf.

⁵ Consumer Financial Protection Bureau Information Collection Request – Supporting Statement Generic Clearance for Collection of Information on Compliance Costs and Other Effects of Regulations, p. 3, *available at* http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201205-3170-003.

questionnaires,”⁶ the only collection instrument submitted for OMB review and public comment is the "Structured Interview Questions for Compliance Managers." ⁷ In response to ABA’s inquiry to the Bureau’s PRA office about when the other information collection instruments would be submitted to OMB, that office replied:

The "Structured Interview Questions for Compliance Managers" is just one of up to 10 collection instruments for Structured Interviews for which the CFPB may request OMB approval per year....

Similarly, the CFPB may request OMB approval of up to 10 collection instruments for Written Questionnaires per year. The CFPB estimates that questionnaires submitted for approval would be administered to as many as 2,000 respondents. There is currently no Written Questionnaire collection instrument submitted for OMB approval.

However, once approval for a generic clearance is granted, the individual collections that fall within it are reviewed on an expedited basis and are not generally required to undergo further public comment. Thus the public will only have been afforded the opportunity to comment on *one* information collection vehicle—a clear denial of the opportunity for meaningful comment. Those denied an opportunity to comment include interested members of the financial services industry who are uniquely qualified to comment on the design of surveys, interviews, or focus group discussions in order to ensure that all costs and other impacts are captured and that the data collected reflects the full range of industry experience. In addition, the lost opportunity for public review will close the door to public input that could minimize the burden of the information collection itself, an essential predicate to ensure that volunteers step forward to participate.

Perhaps anticipating this criticism, the Bureau states, “To determine whether instruments are properly designed, would yield meaningful results, and would not be overly burdensome, the Bureau plans to review and assess specific instruments with test respondents. The Bureau may also work with and seek advice from contractors with deep subject matter expertise and experience in the financial services industry in order to improve its collections. In addition, for select collections, the Bureau may invite comment on its website...”⁸ While we appreciate the expression of interest in seeking input, we believe that the Bureau should not be permitted to short circuit the opportunity for broad public and industry comment made on the record by promising informal opportunities for input by *selected entities* that may not be adequately representative of overall public interest.

Finally, we note our concern with statements by the Bureau suggesting that it does not intend to give the public access to the aggregate results of the information collections. Instead, the

⁶ 77 Fed. Reg., *supra* at 61580.

⁷ See Information Collection List, available at http://www.reginfo.gov/public/do/PRAICList?ref_nbr=201205-3170-003.

⁸ Supporting Statement, *supra* at 6.

Bureau states that “aggregated information *may* appear in proposed or final rules published in the Federal Register or in publically available reports.”⁹ The fact that only selected pieces of the data collected may be available for review and analysis further underscores the need for robust public and industry feedback on the design of information collection instruments and the selection of respondents to ensure that accurate and representative data are collected.

Accordingly, we respectfully urge the Bureau to withdraw, or OMB to deny, the request for a generic clearance for compliance cost information collection requests. We repeat our request for the Bureau to work with OMB and industry representatives to develop an alternative, more streamlined approach to collect information that will ensure the opportunity for public comment on specific instruments.

Thank you for the opportunity to share our views on this important undertaking. As previously expressed, we would like to meet with OMB to discuss the issues presented by the proposed information collection and to explore ideas for an alternative information collection process that is more fair, open, and effective. Please contact the undersigned if you have any questions or to schedule a meeting.

Respectfully submitted,



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⁹ *Id.* at 7(emphasis added).