

December 11, 2017

The Honorable Mick Mulvaney  
Director  
The White House Office of Management & Budget  
725 17th Street, NW  
Washington, DC 20503

*Re: CFPB Debt Collection Quantitative Disclosure Testing  
CFPB-2017-0038, OMB Control Number: 3170-XXXX*

Dear Directory Mulvaney:

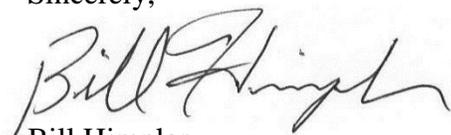
The Consumer Financial Protection Bureau (CFPB or Bureau) is proposing a new information collection titled, “Debt Collection Quantitative Disclosure Testing.”<sup>1</sup> The CFPB is seeking approval from the Office of Management and Budget (OMB) to conduct a web survey of 8,000 individuals as part of the Bureau’s research on debt collection disclosures. The survey will explore consumer comprehension and decision-making in response to debt collection disclosure forms.

The American Financial Services Association (AFSA)<sup>2</sup> asks that the OMB deny the CFPB’s request for approval to conduct the survey. The CFPB should hold off on conducting the survey until a new CFPB director is confirmed and can evaluate the CFPB’s rulemakings to determine if the survey is necessary. AFSA does not believe that the collection of information is necessary for the proper performance of the functions of the Bureau, nor will it have practical utility.

In fact, former Federal Reserve economist Tom Durkin, wrote that he “...does not expect that this project will prove to be a worthwhile expenditure of the taxpayers’ resources.” Durkin’s letter, which is attached here as an appendix, was in response to the Bureau’s first notice of information collection that was published in the Federal Register on June 5, 2017. Durkin objected to the hypothetical questioning in the survey. The hypothetical questions remain in the survey that was published in the Federal Register on November 14.

Please contact me by phone, 202-466-8616, or email, [bhimpler@afsamail.org](mailto:bhimpler@afsamail.org), with any questions.

Sincerely,



Bill Himpler  
Executive Vice President  
American Financial Services Association

---

<sup>1</sup> 82 *Federal Register* 52712, Nov. 14, 2017

<sup>2</sup> Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

Thomas A. Durkin  
1949 Barton Hill Road  
Reston, VA 20191

August 3, 2017

Consumer Financial Protection Bureau  
Attention PRA Office  
1700 G Street NW  
Washington, DC 20552

By electronic mail.

*Re: Debt Collection Quantitative Disclosure Testing,*

*Office of Management and Budget (OMB), Control Number 3170-XXXX,*

*Docket No: CFPB-2017-0013*

To Whom It May Concern:

This letter responds to CFPB's proposed Agency Information Collection Activity titled "*Debt Collection Quantitative Disclosure Testing*" (82 *Federal Register*, p. 25779, June 5, 2017) and its supporting documentation hereinafter the "Supporting Documents"). The comments that follow arise from many years of research experience in the academic, public, and private sectors concerning consumer financial services. This includes survey research on consumers' awareness, use of, and attitudes toward financial services published by the Federal Reserve Board in five different decades (1970s through the current decade). My comments below reflect my views and not those of the Federal Reserve Board, its staff, or other individuals or organizations.

As a general rule, I am very supportive of research by government agencies that improves the rulemaking process. Underlying research is generally very low in cost compared to the regulatory burdens of rules imposed on the public. This argues for undertaking effective research that contributes to improving regulatory effectiveness and reducing regulatory burdens.

I have never been convinced that hypothetical questioning is an effective research method, however, especially in cases like this one where the hypothetical questioning is lengthy, complex, and by its general nature likely not related to specific experience of respondents. It seems self-evident that when any government agency has legislatively received reduced budgetary oversight that the agency has a special internal responsibility to examine its expenditures carefully. This responsibility should include special care with hypothetical, lengthy, complex, and expensive side projects that do not have much likelihood of useful outcome for the taxpayers.

Besides its length and complexity, the most obvious difficulty with the questionnaire proposed for this project is its hypothetical nature. What individuals will do or not do in actual situations can vary substantially from what they say they will do in a hypothetical situation suggested to them. Again this seems so obvious that further discussion should be unnecessary. At a minimum, no truly useful data are likely to result from this kind of questioning.

The CFPB might better address the matter of consumers and debt collection dispute resolution procedures through experimental, rather than survey, design involving actual participants in the sorts of situations of interest. With correct subjects and a careful experimental design, tradeoffs among aspects of debt collection information and other features and costs of debt collection could be explored. Redesigning this project this way would involve a considerable professional undertaking, but it would be more likely to provide useful results to the agency in any exploration of debt collection than extensively examining false hypotheticals.

### The "Survey"

Supporting Documents indicate that the survey project under consideration will begin with lengthy Privacy Act and Paperwork Reduction Act Statements. They may be needed under current law and agency procedures, but they will require attention to multiple computer screens of generally unhelpful information at the outset of respondents' experience with this survey.

After this off-putting introduction, the difficulties with the proposed hypothetical questioning become apparent (pp. 4-5 of its Supporting Document):

SCEN1. Please read the following scenario about someone named Person A. After you read the scenario, click "Next" to read a financial notice that relates to the scenario. Please read the notice and respond to the questions that follow. We are interested in your perceptions and understanding of what you read, so please answer the questions from your own perspective.

**Scenario:** Person A purchased a couch from Main Street Store [3 years ago/ 8 years ago] using a Main Street Store credit card. Person A has not yet paid off the bill and is being contacted by North South Group, a debt collector, on behalf of Main Street Store. Person A receives an envelope from North South Group in the mail and it looks important. Person A opens the envelope and sees a notice about the debt. Click "Next" to read a financial notice

01 CONTINUE

PreQ1. Person A is not sure exactly how much of the debt is still owed, but the amount indicated on the notice looks about right. While it would not be easy, Person A probably could find a way to come up with money to pay the debt. Given the scenario you read earlier and the notice you just saw, please answer the following questions.

**Please note that at any time during this survey, you can look at the notice again by clicking the image on the right of the screen.**

01 Continue

Q01. If you were in Person A's situation, which of the following describes what you would do in response to the notice you just saw?

- 01 Pay the full amount listed in the notice
- 02 Ignore the notice
- 03 Contact the debt collector
- 04 Pay part of the amount listed in the notice
- 05 Other \_\_\_\_\_

Q01A. How would you contact the debt collector?

- 01 By sending a letter to the debt collector
- 02 By telephone
- 03 By mailing in the tear-off form at the bottom of the notice
- 04 Through the debt collector's website
- 05 Other: \_\_\_\_\_

Q01B. Which of the following would be your primary reason for contacting the debt collector?

- 01 To ask additional questions about the debt
- 02 To dispute the debt
- 03 To pay or set up a payment plan
- 04 Other \_\_\_\_\_
- 97 Not sure/don't know

Three reasons suggest the most reasonable true answers to this series of questions are something like "I have no idea":

1. Although a percentage of respondents might conceivably find themselves in a situation of this sort, many would never have done so and in some cases might even be mildly or strongly contemptuous of those who do. Answers might be forced from them by giving them no option to respond "this would not happen," but it gives pause to the idea that their possible responses to any forced selection are reasonably meaningful.

2. Actions of individuals reasonably depend upon the costs and benefits of the contemplated action at the time of its undertaking. But hypothetical questioning implies no cost to respondents at time of its administration, and so there is little reason to have confidence in the answers. Again it is not possible to argue reasonably that responses provided accurately reflect outcomes of possible real situations.

3. There is not enough information given about the scenarios even to contemplate costs and benefits of actions. Potential action taken in an actual situations would depend on form, clarity, and tone of the notice, experience of the respondent with various possible methods of response in other situations (e.g. telephone, web site, etc.), perception whether such a situation could even happen, degree of anger, advice of spouses and others, and possibly many other factors. For a third time, it is not possible to argue reasonably that responses would accurately reflect outcomes of real situations.

All of these concerns continue with the additional lines of questioning:

Q02. Think about the answer you just gave about what you would do in response to the notice. What are the most important reasons that led you to this decision? Please feel free to list as many reasons as you'd like.

Q03. Thinking again about the answer you gave about what you would do in response to the notice, how important was each of the following reasons in leading you to this decision?

Q0301. **Whether or not I expect to be sued.**

Q0302. **Whether or not I expect the debt to appear on my credit report.**

Q0303. **Whether or not I expect the debt to affect my current or future employment status.**

Q0304. **Whether or not I expect my family or friends to find out about the debt.**

Q0305. **Whether or not I expect the debt collector to continue contacting me until I pay off the debt.**

While potential for each or any of these contingencies might be predictable to an individual in some actual situations, often it would be unpredictable even there. At a minimum, understanding likelihood depends on the actual situation and does not extend to questioning about no-cost hypothetical events.

Suffice it to say that it is not necessary to comment on the remaining areas of questioning, because the concerns there are similar. Many to most respondents likely would have no realistic idea of the likelihood of such events and, again, it is hard to argue that their responses forced into pigeon holes would have much research meaning or truly useful policy implications. Ultimately, if results of a project are to be hypothetical (basically, made up), then it is not necessary to undertake substantial expenditures of the taxpayers' resources to make them up. Just because budgetary resources are available does not mean that they should be expended in this way.

Finally, it is difficult to imagine that careful reading and response to this large questionnaire, its preliminary notices, internal examples, "financial notices," and its range of questioning which may in many cases be contrary to experience and have little or no real meaning will take only 33 minutes for the average respondent. Even so, its contemplated \$5 payment is close to minimum wage (or below in some jurisdictions) likely obviating much of the discussion on Supporting Document p. 7 concerning effectiveness of incentives to respondents. Many people, likely including many of those involved with generating this project, might well find this insulting rather than an incentive to participate.

In sum, this lifetime researcher does not expect that this project will prove to be a worthwhile expenditure of the taxpayers' resources.

Thank you for the opportunity to comment on this proposal.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Thomas A. Durkin". The signature is written in dark ink and is positioned to the right of the typed name.

Thomas A. Durkin, Ph.D.