

July 22, 2024

By electronic delivery to:
www.regulations.gov

Mr. Alex Goodenough
Senior Policy Analyst
Office of Information and Regulatory Affairs
Office of Management and Budget
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Mr. Anthony May
PRA Officer
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Notice and Request for Comment, Agency Information Collection Activities, Information Collection Titled “Consumer Complaint Survey,” CFPB-2024-0026, 89 Fed. Reg. 52,030 (June 21, 2024)

Dear Mr. Goodenough and Mr. May,

The American Bankers Association, American Financial Services Association, America’s Credit Unions, and Consumer Bankers Association (the Associations)¹ appreciate the opportunity to comment on the Consumer Financial Protection Bureau’s (Bureau) request for approval under the Paperwork Reduction Act² (PRA) of an information collection titled “Consumer Complaint Survey” (Consumer Complaint Survey).³ The Bureau seeks approval by the White House’s Office of Management and Budget (OMB) to conduct two surveys to “identify factors that influence a consumer’s decision to use the complaint process.”⁴ The first (pilot) survey will focus on “consumers who have experienced issues with their credit cards,” followed by a second survey that will focus on a “broader range of products and services.”⁵

The Associations appreciate the Bureau’s desire to “improve [its] understanding” of the characteristics of consumers who submit complaints, as compared with consumers who have similar problems but have not submitted a complaint.”⁶ Nonetheless, we are deeply concerned that the Bureau has delayed submitting, or OMB has delayed publishing, key information about the Consumer Complaint Survey, including the draft survey instrument, until only 20 days before

¹ A description of each trade association is listed in the Appendix.

² Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

³ Notice and Request for Comment, Agency Information Collection Activities, Information Collection Titled “Consumer Complaint Survey,” CFPB-2024-0026, 89 Fed. Reg. 52,030 (June 21, 2024) [hereinafter, June 2024 Request for Comment].

⁴ *Id.* at 52,031.

⁵ *Id.*

⁶ Consumer Fin. Prot. Bureau, Supporting Statement for Consumer Complaint Survey, OMB Control No. 3170-00XX, at 1 (published July 2, 2024), https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202406-3170-001.

the close of the second (of two) public comment periods required by the PRA.⁷ We urge OMB to require agencies to provide the draft survey instrument, supporting statements, and other information when the agency first announces its request for OMB approval, and for OMB to publish these documents at that time.

Earlier publication of key information about a proposed survey would advance the purposes of the PRA. Congress enacted the PRA to ensure that, when a federal agency conducts a survey or otherwise collects information from ten or more members of the public, the survey or information collection “maximize[s] the utility of information” collected and minimizes the burden on survey respondents.⁸ The PRA achieves these goals by requiring agencies to provide the public with two opportunities to submit comments on the agency’s request to conduct the survey. First, when the agency announces the proposed survey, the PRA requires the agency to provide 60 days for the public to submit comments to the agency.⁹ Next, the agency must “evaluate” the comments submitted by the public.¹⁰ Then, when the agency submits its request to OMB, that submission begins a second, 30-day comment period, which provides the public with the opportunity to provide OMB with feedback on the collection request.¹¹

Although the PRA provides two opportunities for public comment, members of the public cannot provide meaningful feedback if sufficient detail about the proposed survey is not available in advance of the comment deadlines. When the Bureau announced the start of the 60-day comment period on the proposed Consumer Complaint Survey – on March 6, 2024 – the Bureau provided only a three-paragraph “abstract” of information about the purpose of the Survey.¹² Similarly, when the Bureau announced the submission of its collection request to OMB on June 21, 2024 – which started the 30-day comment period – the Bureau provided an identical three-paragraph abstract of information about the purpose of the Survey.¹³ On July 2, 2024, OMB published the draft survey instrument for the pilot survey, Supporting Statement A (which describes the agency’s rationale for conducting the survey), and other information about the methodology the Bureau would use to conduct the survey.¹⁴ The publication of these documents came after the initial 60-day comment period had ended and only 20 days before the second, 30-day comment period closed.

Regrettably, the delay in providing substantive information about the proposed Consumer Complaint Survey continues a problematic practice whereby the agency or OMB withholds

⁷ Based on e-mail exchanges with Bureau staff, it is not clear if the Bureau or OMB was the cause of the delay in publishing information related to the proposed Consumer Complaint Survey.

⁸ 44 U.S.C. § 3501(1) & (2).

⁹ *Id.* § 3506(c)(2).

¹⁰ *Id.* § 3507(a)(1)(B).

¹¹ *Id.* § 3507(b).

¹² See Notice and Request for Comment, Agency Information Collection Activities, Information Collection Titled “Consumer Complaint Survey,” CFPB-2024-0007, 89 Fed. Reg. 15,981, 15,982 (Mar. 6, 2024).

¹³ See June 2024 Request for Comment, *supra* note 3, at 52,031.

¹⁴ Office of Info. & Reg. Affairs, Office of Mgmt. & Budget, Exec. Office of the Pres., ICR Documents for Consumer Complaint Survey, https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202406-3170-001 (last visited July 13, 2024) (listing “07/02/2024” as “Date Uploaded” for “Consumer Complaint Survey Supporting Statement”); *id.*, Agency Submission for Consumer Complaint Survey, https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202406-3170-001 (last visited July 13, 2024) (listing “07/02/2024” as “Date Submitted to OIRA” for “Full Survey” and “Pilot Survey” for Consumer Complaint Survey).

information that would allow the public to provide meaningful comment on a proposed collection. In 2022, the Bureau sought OMB approval to revise the Report of Terms of Credit Card Plans and Consumer and College Credit Card Agreements (Report of Credit Card Plan Terms).¹⁵ However, the Bureau’s initial request for comment, which began the 60-day comment period, did not specify what the proposed revisions were.¹⁶ Consequently, the public had no basis on which to provide feedback on the collection request during the 60-day comment period.¹⁷ OMB did not publish on its website the Supporting Statement A for this collection request until the date on which the second, 30-day comment period began,¹⁸ and that document lacked important information about the collection request.¹⁹

A requirement that the agency submit, and OMB publish, the draft survey instrument, supporting statements, and other information at the commencement of the first, 60-day comment period would allow the public to provide meaningful comment *to the agency* on the proposed survey, including the survey’s methodology and universe of respondents, and on the utility the survey provides (or does not provide) to the public and government. This would fulfil the PRA’s dual purposes to maximize the utility of surveys and to minimize burden on survey respondents. We understand agencies prepare the draft survey instrument by the time the agency publishes the Federal Register notice starting the 60-day comment period.²⁰ Therefore, an OMB requirement that information about the collection request be published at this time would not create significant burden for the agency.

A requirement that the draft survey instrument and other key information be published at the start of the 60-day comment period also would advance the Administration’s efforts to “expand

¹⁵ See Notice and Request for Comment, Agency Information Collection Activities, Information Collection Titled “Report of Terms of Credit Card Plans (Form FR 2572) and Consumer and College Credit Card Agreements,” CFPB-2022-0048, 87 Fed. Reg. 50,851 (Aug. 18, 2022).

¹⁶ *Id.* at 50,852 (providing two-paragraph “abstract” of collection request).

¹⁷ ABA and other trade associations sent two letters to the Bureau during the 60-day comment period, requesting the revised terms on which the Bureau sought PRA approval. See Letter from Am. Bankers Ass’n *et al.* to Anthony May, PRA Officer, Consumer Fin. Prot. Bureau (Oct. 14, 2022), <https://www.aba.com/advocacy/policy-analysis/joint-ltr-credit-card-terms>; Letter from Am. Bankers Ass’n *et al.* to Anthony May, PRA Officer, Consumer Fin. Prot. Bureau (Sept. 7, 2022), <https://www.aba.com/advocacy/policy-analysis/letter-requesting-extension-on-pra-card-agreements>.

¹⁸ Office of Info. & Reg. Affairs, Office of Mgmt. & Budget, Exec. Office of the Pres., ICR Documents for Terms of Credit Card Plans Survey and Consumer and College Credit Card Agreements, https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202211-3170-003 (last visited July 15, 2024) (listing “02/10/2023” as “Date Uploaded” for Supporting Statement A, which is the same date when the 30-day comment period began); see also Notice and Request for Comment, Agency Information Collection Activities, Information Collection Titled “Terms of Credit Card Plans Survey,” CFPB-2023-0014, 88 Fed. Reg. 8,822 (Feb. 10, 2023) (announcing 30-day comment period).

¹⁹ The Bureau’s Supporting Statement A for the Report of Credit Card Plan Terms did not address the PRA’s necessity and practical utility requirement for OMB approval. See Letter from Am. Bankers Ass’n to Anthony May, Paperwork Reduction Act Officer, Bureau of Consumer Fin. Prot. (Mar. 13, 2023), <https://www.reginfo.gov/public/do/DownloadDocument?objectID=129972202>.

²⁰ For example, one document associated with the Consumer Complaint Survey (a Privacy Act statement) lists a date of “20240202” – i.e., February 2, 2024 – which is more than one month prior to the start of the 60-day comment period. Office of Info. & Reg. Affairs, Office of Mgmt. & Budget, Exec. Office of the Pres., View Information Collection (IC) for Full Survey for Consumer Complaint Survey, https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202406-3170-001&icID=268420 (last visited July 13, 2024).

opportunities for meaningful stakeholder engagement.”²¹ We offer this recommendation to advance “good government” and hope OMB, the Bureau, and other stakeholders from across the political spectrum will support it. Indeed, the Administration has correctly observed that agencies’ existing stakeholder engagement approaches “are too often perceived by stakeholders and agencies alike as being siloed, inaccessible, or without clear purpose.”²² When an agency seeks comment on a collection request but only three paragraphs of information about that request is provided to the public – as with the Consumer Complaint Survey – the public correctly interprets the request for comment as being perfunctory and not truly seeking the public’s feedback.

Thank you for your consideration of these views.

Sincerely,

American Bankers Association
American Financial Services Association
America’s Credit Unions
Consumer Bankers Association

²¹ Office of Mgmt. & Budget, Exec. Office of the Pres., Meeting a Milestone of President Biden’s Whole-of-Government Equity Agenda, <https://www.whitehouse.gov/omb/briefing-room/2021/08/06/meeting-a-milestone-of-president-bidens-whole-of-government-equity-agenda/> (Aug. 6, 2021).

²² *Id.*

APPENDIX

The American Bankers Association is the voice of the nation's \$24 trillion banking industry, which is composed of small, regional and large banks that together employ approximately 2.1 million people, safeguard \$19 trillion in deposits and extend \$12.4 trillion in loans.

The American Financial Services Association (AFSA) is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with closed-end and open-end credit products including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

America's Credit Unions is the national trade association for consumers' best option for financial services: credit unions. America's Credit Unions advocates for policies that allow credit unions to effectively meet the needs of their nearly 140 million members nationwide.

The Consumer Bankers Association is the only national trade association focused exclusively on retail banking. Established in 1919, the association is now a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.