

**CONSUMER FINANCIAL PROTECTION BUREAU
INFORMATION COLLECTION REQUEST – SUPPORTING STATEMENT
“POLICY TO ENCOURAGE TRIAL DISCLOSURE PROGRAMS; INFORMATION
COLLECTION”
(OMB CONTROL NUMBER: 3170-XXXX)**

A. JUSTIFICATION

1. Circumstances Necessitating the Data Collection

The Dodd Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) authorizes the Consumer Financial Protection Bureau (Bureau) to provide certain legal protections to companies to conduct trial disclosure programs. *See* 15 U.S.C. 5532(e). Section 5532(e) requires that the Bureau’s exercise of this authority be subject to “specified standards and procedures.” *See* 15 U.S.C. 5532(e)(1). On December 17, 2012, the Bureau published a proposed policy to meet this requirement. The Bureau has since revised the proposed policy. The Bureau has attached the revised proposal to this Supporting Statement as Exhibit A (Proposed Policy). As the Proposed Policy explains, approved trial disclosure programs enable companies to test the effectiveness of disclosures that would otherwise violate federal disclosure requirements.

The Proposed Policy invites companies that want to conduct such trial disclosure programs to submit their proposals to the Bureau for consideration. The Proposed Policy also lays out a number of eligibility criteria for such proposals to meet. (*See* Ex. A, Section A, “Eligibility.”) These criteria call for the submission of certain information with the proposal, such as the revised disclosures to be tested, the name of the company that will use them in the test, the reasons that the company expects the disclosures to be an improvement over current disclosures, the metrics for testing the effectiveness of the revised disclosures, and so on.

There are two main purposes for the use of these eligibility criteria. First, the specific criteria are intended to help the Bureau identify trial disclosure proposals that hold the potential to demonstrate improvements in disclosure to consumers, while controlling appropriately for risks to consumers. Second, by using standardized criteria across all submitters, the Bureau will be better placed to assess the merits of different proposals relative to each other.

2. Use of the Information

The Proposed Policy makes clear that trial disclosure proposals will not be considered for approval unless they meet the listed eligibility criteria. The proposer of the program should supply the information listed under the “Eligibility” section of the Proposed Policy. The suggested means is via email, although arrangements can be made for the use of regular mail. The Bureau will use this information to filter trial disclosure proposals into two streams. Proposals in the first stream will be eligible for further Bureau consideration and potentially Bureau approval under Section 5532(e). (Section B of the Proposed Policy describes the factors

that the Bureau will consider when assessing eligible proposals for approval. *See Ex. A.*) Proposals in the second stream will be ineligible for approval.

In addition to providing a standardized basis for assessing eligibility, the criteria, as noted above, serve to identify proposed programs that carry the potential for developing and verifying disclosure improvements, while controlling for risks to consumers. The criteria control consumer risk in two ways. First, the criteria direct proposers to describe the scope of the proposed trial program: what will be tested, on whom, for how long, and subject to a waiver of which federal disclosure statutes and rules. Second, the criteria direct proposers to identify risks to consumers, and the steps that the program will take to mitigate those risks effectively.

3. Use of Information Technology

The Proposed Policy will use a designated email address for the submission of information that establishes program eligibility. (There is no standard form involved. Submitters must provide documentation showing that they meet the eligibility criteria stated in the Proposed Policy.)

4. Efforts to Identify Duplication

The information is particular to each test disclosure program proposal. It is not collected by other regulators or any other party.

5. Efforts to Minimize Burdens on Small Entities

The Bureau does not anticipate significant impact on small businesses or small entities. Submissions of proposals are entirely voluntary. In addition, the burden of providing the eligibility information is not significant. The Bureau anticipates that some smaller entities, including start-up ventures, will have interest in the program. The concept behind the program is too new to offer any basis for assessing how many proposals will come from institutions of different size.

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

Information about eligibility will be provided only by those companies who wish to submit proposed trial disclosure programs. There is no requirement on any party to propose such programs.

There is no meaningful way for the Bureau to conduct the collection less frequently unless the Bureau were to dispense with eligibility criteria altogether, which would risk the approval of inappropriate and risky programs and might potentially conflict with the statutory requirement to approve programs “subject to specified standards and procedures.” No commenter suggested the elimination of the eligibility criteria – or of any particular criterion.

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 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 CFR 1320.8(d)(1), on December 17, 2012, the Bureau published a notice in the *Federal Register* allowing the public 60 days to comment on the proposed policy. (See 77 FR 74625). The Bureau received a number of comments in response. Most of these comments concerned the proposal overall, and not the specific component deemed to be an information collection. (The Bureau also held a number of stakeholder meetings and external conference calls about the proposed policy. These were intended to call attention to the proposed policy and to invite comments in response to it.) The Bureau responded to comments as explained in detail in the revised proposed policy, which is attached hereto. (See Ex. A).

Further, in accordance with 5 CFR 1320.5(a)(1)(iv), the Bureau has published a notice in the *Federal Register* allowing the public 30 days to comment on the submission of this information collection request to the Office of Management and Budget. In addition, the Bureau intends to publish a blog posting that will alert the public both to the Bureau's disclosure of the Proposed Policy and to the opportunity to comment on the submission of this information collection request.

9. Payments or Gifts to Respondents

No payments or gifts are provided to respondents.

10. Assurances of Confidentiality

The Proposed Policy describes the information that the Bureau will disclose about approved trial disclosure programs. (See Ex. A, Section D.) Some of that information will reflect information submitted to satisfy the eligibility criteria, such as the identity of testing companies and the disclosure to be used. Eligibility criteria information not disclosed in this manner will be subject to disclosure under the Bureau's Rule on Disclosure of Records and Information. See 12 CFR 1070 *et seq.* For example, the rule requires the Bureau to make available records requested by the public unless they are subject to a FOIA exemption or exclusion. See 12 CFR 1070.14.

11. Justification for Sensitive Questions

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

12. Estimated Burden of Information Collection

As indicated in the original version of the Proposed Policy, the Bureau estimates that it will receive between 2 and 10 responses annually. It also estimates that the burden to make a submission on the eligibility criteria will be between 2 to 10 hours per respondent. No commenter questioned these estimates.

The Bureau, therefore, estimates that the total annual burden for the information collections contained in the Proposed Policy would not exceed 100 hours.

10 respondents x 10 hours per response = 100 hours.

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

There are no capital/start-up or ongoing operation/maintenance costs associated with this information collection.

14. Estimated Cost to the Federal Government

The only costs involved for the Bureau are those required to review the submission to verify that a program is eligible for further consideration. While the overall assessment of a given program proposal may require significant analysis, the verification that the objective eligibility criteria are met will involve a straightforward binary determination for each criterion based on a review of the submission. We estimate that this will not take more than a single employee more than two to three hours per submission. Therefore, the Bureau will incur no additional or unique costs as a result of this collection of information.

15. Program Changes or Adjustments

Not applicable. This is a new collection.

16. Plans for Tabulation, Statistical Analysis, and Publication

As noted, the complete package of information submitted to demonstrate compliance with the eligibility criteria are not intended for tabulation or publication. Certain items of information contained in such a submission—including the identity of the testing party, the disclosure to be tested, the duration of its intended use—will be disclosed by the Bureau if the program proposal is specifically approved by the Bureau. This is described in Section D of the Proposed Policy at Exhibit A. As noted there, the Bureau will make this disclosure on its website.

17. Display of Expiration Date

In accordance with 5 CFR 1320.8(c)(1)(iii), the Bureau will display the OMB control number and expiration date in the notice of final policy when published in the *Federal Register*.

18. Exceptions to the Certification Requirement

The Bureau certifies that the collection of information encompassed by this request complies with 5 CFR 1320.9 and is not seeking any exception to the requirements as contained therein.