American Bankers Association
Building Success. Together.

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August 4, 2017

By electronic delivery to:
Darrin.King@cfpb.gov

Mr. Darrin King
Paperwork Reduction Act Officer
Bureau of Consumer Financial Protection
1275 First Street, N.E.
Washington, D.C. 20002

Re: Notice and Request for Comment Regarding Debt Collection Quantitative Disclosure Testing, OMB Control Number: 3170-XXXX, Docket No. CFPB: 2017-0013

Dear Mr. King,

The American Bankers Association (ABA) [1] appreciates the opportunity to submit comments in response to the Bureau of Consumer Financial Protection's (Bureau) request for approval under the Paperwork Reduction Act (PRA) to conduct a national web-based survey of 8,000 individuals as part of the Bureau's study of debt collection disclosures (Debt Collection Disclosures Survey).[2]

ABA supports the Bureau's interest in conducting a survey of consumers to understand better their comprehension of and decision making in response to debt collection notices.[3] We agree that information about the effectiveness of debt collection disclosures should provide useful guidance to the Bureau for its Fair Debt Collection Practices Act (FDCPA) rulemaking, and we support efforts to improve consumer understanding of their rights under the FDCPA.

However, ABA opposes the Bureau's PRA request. The Bureau has declined to provide all the materials necessary for meaningful comment. Were the Bureau to provide the full information transparency and accountability require, ABA would very much want to support a valuable information gathering effort.

I. Transparency and Accountability Require that the Bureau Provide the Full Survey Instrument, Including Attachments, When Seeking Public Comment.

In its PRA submission, the Bureau stated that the survey intends to "test a number of outstanding questions related to disclosures the Bureau is developing in conjunction with its debt collection

[1] The American Bankers Association is the voice of the nation's $17 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $13 trillion in deposits and extend more than $9 trillion in loans.
[2] Notice and Request for Comment, Debt Collection Quantitative Disclosure Testing, 82 Fed. Reg. 106 (Jun. 5, 2017).
[3] *Id.*

rulemaking."[4] As noted above, ABA supports the Bureau's plan to explore consumer understanding of debt collection disclosures and consumer understanding of the collections process more generally. The information has the potential to improve engagement between consumers and collectors. For those reasons, the integrity of the PRA process should not be undermined. Indeed, faithful adherence to that process increases the likelihood of a properly designed and executed survey that will produce data that can be relied upon to support policymaking. Providing complete information about the study to be conducted, and considering feedback from all stakeholders – including consumer groups and the industry – can only improve the quality of the survey and ensure that the survey is designed to obtain the most useful results with minimal burden on the public.

ABA contacted the Bureau by phone and email to request the notices that will be tested. After receiving no substantive response, on July 14, 2017, ABA and two other trade associations sent a letter to the Bureau formally requesting any notices and other text referenced in the survey questions and an extension to the comment period to provide the public with the full benefit of the 60-day comment period.[5] The Bureau responded on August 2, 2017, stating in a letter that "the information necessary to comment on how we plan to evaluate consumer comprehension and decision-making, including the draft survey instrument and research methodology, has been released . . . ."[6] We disagree. The Bureau has refused to release necessary information, in contravention of the purposes of the PRA process and most ample public awareness and participation.

The PRA was enacted to "ensure the greatest possible public benefit from and maximize the utility of information" [7] collected by the Federal government, and to "improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society."[8] The Bureau's request for OIRA approval of this survey without providing all the materials necessary for meaningful comment contravenes the PRA goals of accountability and openness. In fact, OIRA has, in guidance on the PRA process, stated that "[a]t the time [the 60-day] notice is published, agencies must have at least a draft survey instrument available for the public to review."[9]

Although the Bureau has provided the draft survey questions with its supporting statement, the materials provided in its submission, and made available to the public, are incomplete. The

[4] BUREAU OF CONSUMER FIN. PROT., OMB CONTROL NO.: 3170-XXXX, DEBT COLLECTION QUANTITATIVE DISCLOSURE TESTING, SUPPORTING STATEMENT PART A AT 4 (2017).
[5] *See*, Letter from ABA, CBA, and CUNA to Darrin King, Bureau of Consumer Fin. Prot. (July 14, 2017), *available at* http://www.aba.com/Advocacy/commentletters/Documents/cl-RFE-DebtCollection2017.pdf.
[6] Letter from David Silberman, Bureau of Consumer Fin. Prot. to ABA, CBA, and CUNA (Aug. 3, 2017), *available at*: http://www.aba.com/Compliance/Documents/BureauResponse-DebtCollection2017.pdf.
[7] Paperwork Reduction Act of 1995, Pub. L. No. 104-13 (codified at 44 U.S.C. § 3501(2)).
[8] *Id.* (codified at 44 U.S.C. § 3501(4)).
[9] JOHN D. GRAHAM, ADMIN., OFFICE OF INFO. & REGULATORY AFFAIRS, OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, QUESTIONS & ANSWERS WHEN DESIGNING SURVEYS FOR INFO. COLLECTIONS 3 (Jan. 2006, last modified Oct. 2016), *available at* https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/omb/inforeg/pmc_survey_guidance_2006.pdf.

survey questions ask respondents to answer a series of questions after reading a "financial notice." [10] However, that notice is not included in the materials available to the public. Similarly, respondents are asked to review "text that appears on the notice … which could appear on the notice in some cases, even though it was not on the version you saw" and to respond to a series of questions.[11] However, this text also has not been provided. Respondents cannot answer the survey questions without the referenced notice and text, and therefore these documents are inherently a part of the survey instrument. Without them, it is impossible to comment meaningfully on the survey instrument.

Moreover, in its supporting statement, the Bureau states that the notices to be tested through the survey were informed by previous qualitative research conducted by the Bureau under a generic clearance.[12] By using a generic clearance to pre-test the notices, the Bureau admits that it has already bypassed notice and comment on the draft disclosures and denied stakeholders – including consumers and the industry – an opportunity to offer feedback, a clear abuse of the generic clearance process, which is not to be used for policymaking purposes.

The Bureau also notes in its August 2, 2017, letter that "any disclosures that become a part of a rulemaking will be released at a later date and will be subject to public notice and comment."[13] While we appreciate that there will be an opportunity to offer feedback further down the road on the disclosures that may become part of a rulemaking, it does not excuse compliance with the PRA, which mandates an opportunity to provide feedback on the disclosure testing that is the subject of the PRA request.

ABA continues to believe it is critical that the Bureau provide any notices and text referenced in the survey instrument and grant the statutory 60-day comment period to enable the public to review the notices and comment on the survey as required by the PRA.

II. Further Changes to the Survey Instrument or Disclosures Also Require Appropriate Notice and Comment.

The survey methodology proposes to begin with a "soft launch" targeting *1,000 completed surveys* to "ensure the instrument is functioning as intended."[14] Following this expansive soft launch, the Bureau intends to "pause the survey, *review results*, and identify any changes that

[10] BUREAU OF CONSUMER FIN. PROT., OMB CONTROL NO. 3170-XXXX, DEBT COLLECTION QUANTITATIVE TESTING SURVEY INSTRUMENT, OUTLINE OF SURVEY ITEMS.

[11] *Id.*at 15 (Pre_Q25a).

[12] *See* BUREAU OF CONSUMER FIN. PROT., OMB CONTROL NO.: 3170-XXXX, DEBT COLLECTION QUANTITATIVE DISCLOSURE TESTING, SUPPORTING STATEMENT PART A AT 4 (2017), *citing* BUREAU OF CONSUMER FIN. PROT., OMB CONTROL NO. 3170-0055, GENERIC INFORMATION COLLECTION PLAN TO CONDUCT COGNITIVE RESEARCH AND PILOT TESTING (2017), in an information collection titled "Debt Collection Disclosure Testing Quantitative Study, Pretesting of Survey Questions."

[13] Letter from David Silberman, Bureau of Consumer Fin. Prot. to ABA, CBA, and CUNA (Aug. 2, 2017), *available at:* http://www.aba.com/Compliance/Documents/BureauResponse-DebtCollection2017.pdf.

[14] BUREAU OF CONSUMER FIN. PROT., OMB CONTROL NO. 3170-XXXX, DEBT COLLECTION QUANTITATIVE DISCLOSURE TESTING, SUPPORTING STATEMENT PART B AT 2 (2017).

need to be made before fully launching the survey."[15] The survey is expected to be in the field for three weeks.[16]

Although ABA supports the Bureau's intention to evaluate the effectiveness of the survey and make necessary adjustments, we have concerns with the plan outlined by the Bureau. First, any changes to specific survey questions may impact the results and the conclusions that can be drawn from the data. If changes are made to the questions, the responses should not be aggregated.

Second, transparency dictates that the public be provided notice and afforded the opportunity to comment on any changes made to the substance of the survey instrument. Otherwise, under the guise of "proper survey functioning" a survey instrument may be changed in meaningful ways, bypassing the PRA review process and potentially undermining the quality and the effectiveness of the approved information collection.

ABA does not oppose technical corrections to the survey's functionality following the "soft launch," such as adjustments to ensure buttons click properly and disclosures are accessible. However, changes to the content – particularly the survey questions and the disclosures tested – must be published for notice and comment as required by the PRA.

III. Conclusion

Ultimately, stakeholders and the Bureau have a shared interest in ensuring that consumers understand the communications they receive about outstanding debts. This survey, if properly done, has the potential to provide insight into how to improve these communications. For that purpose, it is important to remember that, as Congress recognized when it enacted the PRA, inviting public comment on a proposed survey will "ensure the greatest possible public benefit from and maximize the utility of information collected." Without providing the notices that the survey questions address, the effectiveness of the survey instrument itself cannot be fully evaluated, and the Bureau cannot obtain the meaningful comment prescribed by the PRA.

ABA urges the Bureau to make the disclosures available to the public and to reset the comment deadline so that interested stakeholders have the full 60-day period to review and comment on the proposed survey.

Sincerely,

Anjali Wade Phillips

Anjali Phillips
Senior Counsel, Center for Regulatory Compliance

[15] *Id.* (emphasis added).
[16] *Id.*

cc: Ms. Shagufta Ahmed
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August 4, 2017

VIA ELECTRONIC DELIVERY TO REGULATIONS.GOV

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

Re: ***Comments of ACA International on "Debt Collection Quantitative Disclosure Testing" Information Collection Request, Docket No. CFPB– 2017–0013, OMB Control Number: 3170–XXXX***

Dear PRA Officer:

ACA International ("ACA"), the Association of Credit and Collection Professionals, submits these comments in response to the request by the Consumer Financial Protection Bureau ("Bureau") for a new information collection titled, "Debt Collection Quantitative Disclosure Testing" ("Disclosure Survey") under the Paperwork Reduction Act of 1995 ("PRA").[1] In the request, the Bureau seeks to conduct a web-based survey of 8,000 individuals as part of the Bureau's research on debt collection disclosures. According to the Bureau, the survey is intended to "explore consumer comprehension and decision making in response to debt collection disclosure forms."[2]

ACA appreciates the opportunity to provide input on the Bureau's proposed consumer Disclosure Survey. While ACA believes it is critical that any future debt collection rulemaking is based on robust research and analysis, ACA has serious concerns with the Disclosure Survey as proposed. First, as a threshold matter, opportunity to provide meaningful feedback on the new information collection as required by the PRA is significantly hampered by the Bureau's failure to provide the financial notices upon which many of the survey questions are based. Second, the proposed Disclosure Survey itself suffers from several flaws that undermine its "practical

[1] 82 Fed. Reg. 25779 (June 5, 2017)("Notice").
[2] *Id*.

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utility."[3] In order to help remedy these shortcomings, ACA offers several modifications to improve the "quality, utility, and clarity of the information to be collected" through the Disclosure Survey.[4] Ultimately, ACA respectfully urges the Bureau to release the underlying financial notices and modify the Disclosure Survey as described herein before moving forward with its PRA request.

In addition, given the importance of potential new disclosures to the Bureau's upcoming debt collection rulemaking efforts, ACA also urges the Bureau to refrain from releasing a proposed rule on debt collection until it has concluded and released the results of any debt collection research related to the rulemaking, including this potential new Disclosure Survey. Release of a debt collection proposed rule without a full, data-driven understanding of potential new disclosures would undermine the rulemaking process.

I. BACKGROUND ON ACA INTERNATIONAL

ACA International is the leading trade association for credit and collection professionals. Founded in 1939, and with offices in Washington, D.C. and Minneapolis, Minnesota, ACA represents approximately 3,000 members, including credit grantors, third-party collection agencies, asset buyers, attorneys, and vendor affiliates in an industry that employs more than 230,000 employees worldwide. Given its longstanding history and broad membership, ACA is uniquely positioned to assist the Bureau with information gathering related to debt collection, as well to collaborate with the Bureau on how its proposed policies and regulations will impact the credit and collection industry.

ACA members include the smallest of businesses that operate within a limited geographic range of a single state, and the largest of publicly held, multinational corporations that operate in every state. The majority of ACA-member debt collection companies, however, are small businesses with nearly 70 percent maintaining fewer than 20 employees.[5]

As part of the process of attempting to recover outstanding payments, ACA members are an extension of every community's businesses. ACA members work with these businesses, large and small, to obtain payment for the goods and services already received by consumers. In years past, the combined effort of ACA members has resulted in the annual recovery of billions of dollars – dollars that are returned to and reinvested by businesses and dollars that would otherwise constitute losses on the financial statements of those businesses. Without an effective collection process, the economic viability of these businesses and, by extension, the American economy in general, is threatened. Recovering rightfully-owed consumer debt enables

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[3] 5 C.F.R. § 1320.5(d)(1)(iii).
[4] *See* Notice at 25779.
[5] Josh Adams, Ph.D., *Small Businesses in the Collection Industry: An Overview of Organization Size and Employ*ment, ACA International White Paper (August 2016) *available at* http://www.acainternational.org/files.aspx?p=/images/40363/aca-wp-smallbusiness.pdf.

organizations to survive, helps prevent job losses, keeps credit, goods, and services available, and reduces the need for tax increases to cover governmental budget shortfalls.

Importantly, ACA members are committed to fair, reasonable, and respectful practices and take their obligations in collecting debt very seriously. As legitimate credit and collection professionals, ACA members play a key role in helping consumers fulfill their financial goals and responsibilities while facilitating broad access to the credit market.

II. COMMENTS OF ACA INTERNATIONAL

In this proposed new information collection request, the Bureau plans to seek approval from the Office of Management and Budget to conduct a web-based survey of 8,000 individuals as part of the Bureau's research on debt collection disclosures. Unlike previous disclosure testing which used a smaller sample size and focused on aspects of the disclosure form itself (like layout), this survey will use a much larger sample size and updated forms to explore consumer comprehension and decision making in response to debt collection disclosure forms. According to the Bureau, it plans to use the information gathered from the web survey "to help assess whether it can improve the clarity of forms used during debt collection to facilitate consumer decision making," as well as to help inform the development of future consumer disclosures.[6]

In the Notice, the Bureau invites comments on four aspects of the collection request in accordance with the requirements of the PRA.[7] In these comments, ACA focuses on "Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility" and "Ways to enhance the quality, utility, and clarity of the information to be collected."

At the outset, ACA commends the Bureau for engaging in further research and analysis as it considers a rulemaking to govern the consumer debt collection market. As ACA has explained since the Bureau first released the debt collection Advance Notice of Proposed Rulemaking, the debt collection market is extremely varied and complex. Any new rules must be reflective of operational realities and an accurate understanding of the interaction between consumers and legitimate debt collectors. It is therefore imperative that the Bureau forms an empirical basis that demonstrates the need for any new rules, including potential disclosures, instead of relying on subjective impressions of how debt collection works.

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[6] Bureau of Consumer Financial Protection, Supporting Statement for CFPB's "Debt Collection Quantitative Disclosure Testing" Information Collection Request, 60 Day Notice, Docket No. CFPB– 2017–0013, at 3.

[7] *See* Notice at 25779.

A. The collection of information, as proposed, has limited practical utility.

While the proposed Disclosure Survey appears to be a step in the right direction, in order for the survey feedback to provide a meaningful basis for rulemaking, the instrument itself, as well as the methodology, must be carefully designed. As it currently stands, however, the Disclosure Survey, while promising in some respects, contains several shortcomings that need to be addressed before it can have the "practical utility" required by the PRA.

In terms of methodology, the Bureau appears to be approaching the Disclosure Survey in a more robust way than it has with previous debt collection research, which is a positive development. For example, ACA has previously criticized the Bureau for reporting results of surveys with exceptionally small sample sizes. To illustrate, the report "Consumer Experiences with Debt Collection: Findings from the CFPB's Survey of Consumer Views on Debt" purported to provide a "comprehensive and nationally representative" account of a unique consumer experience. Nevertheless, of the survey's 2,132 respondents only **632** reported any experience with debt collection. The current plan to sample 8,000 respondents, while also oversampling those who have had experience with debt collection, represents an overall improvement in methodological approach and will hopefully yield a more representative sample of the target population. In addition, ACA is also pleased that the Bureau has decided to contract with GfK, a global research firm with expertise in the area of consumer research, to administer the survey. Given GfK's experience with the administration of large-scale surveys, including appropriate sampling techniques, ACA is hopeful that some of the weaknesses of prior debt collection research will be improved.

Despite these methodological improvements, however, there are several significant issues with the survey instrument itself. While the idea of testing consumer understanding of potential new debt disclosures certainly has practical utility in informing the Bureau's rulemaking efforts, for this utility to be actualized, the Disclosure Survey instrument must be well crafted and its questions must be designed to elicit meaningful and reliable feedback. Unfortunately, without access to the financial notices upon which many of the questions are based, it is virtually impossible to fully evaluate the survey's "practical utility."

For example, item Q04 asks "how likely do you think it is that the debt collector will sue Person A"? How can the utility of this question be evaluated without knowing whether the financial notice makes reference to legal action? This is an important element in many of the survey's questions that reference litigation and demonstrates why it is so important for the Bureau to release the financial notices as part of the PRA process.[8] Without it, the meaningful feedback the PRA clearance process is meant to elicit is thwarted.

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[8] *See, e.g.*, Disclosure Survey, Q04, Q08, Q10, Q12, Q14, Q16, Q21, and Q23.

In addition, while the items that ask about the perceived legality of collector actions might be used to infer some degree of knowledge, without establishing a baseline level of understanding, those items might actually be measuring reading comprehension instead. This is essentially true throughout the survey. If one of the goals is to examine the utility of the written notice, then in addition to items assessing the instrument, there also needs to be items measuring respondent comprehension of the notice itself. For example, if the notice states that a debt is "90 Days Past Due," the respondent should be able to identify what that means. There are no items of this nature in the survey.

Furthermore, many of the questions do not seem to be measuring what the Disclosure Survey is purported to measure. Specifically, several items appear to be designed to assess the respondent's assumptions about the character of an archetypical debt collector or to speculate about the likely actions of said collector, rather than an assessment of their ability to comprehend the content of the sample financial notice.[9] Not only do these types of questions fall well outside the Bureau's stated use of the Disclosure Survey, this is problematic because it deprives the Bureau of the opportunity to obtain data-driven, objective feedback.

One particularly egregious example of this is Q3309 which asks respondents to rate on a 1-5 scale their agreement with the following statement, "Debt collectors generally don't care whether the people they are trying to collect debts from actually owe the debt." Besides the fact that this seems to be a leading statement, it is difficult to understand how responses from consumers to an item like this can be used by the Bureau to evaluate potential new disclosures, nor to more generally inform any future rulemaking.

Given that that the majority of the items in the Disclosure Survey are measuring attitudinal variables or subjective interpretations, there is an overall lack of objective measurement that fundamentally undermines the practical utility of the survey. Instead, there are a range of issues that could, and should, be measured if this survey is going to be part of a data-driven effort to inform the Bureau's debt collection rulemaking, including respondent knowledge, reading comprehension, and general financial literacy, particularly in conjunction with important demographic variables that appear to be left out of the survey altogether.[10] Without the inclusion of more concrete measures, despite a more robust methodology, the Disclosure Survey runs the risk of simply being an opinion survey masquerading as an objective measure of consumer understanding and decision making.

[9] *See, e.g.*, Q3303-Q3309.
[10] There is a range of data points that might help further contextualize the findings such as: educational attainment, income, employment status, credit score, primary language, etc.

B. Ways to enhance the quality, utility, and clarity of the information to be collected.

In light of the shortcomings of the proposed Disclosure Survey described above, ACA strongly urges the Bureau to consider the following modifications and actions to enhance the quality, utility, and clarity of the information to be collected through the survey:

- Release the financial notices upon which many of the survey questions are based.

- Replace the questions that fall in the categories of "do you think" and "how likely do you think" with a series of items asking specific, objective questions about the notice (i.e., can the respondent interpret the technical details correctly). This will add clarity to items that ask questions such as "how likely do you think it is that the debt collector would sue…" and better allow the Bureau to determine whether the respondent is answering because they understand the implications of the notice or simply because they hold the belief that debt collectors are or are not inclined to sue consumers.

- Add a series of items assessing the respondent's financial literacy, including their understanding of debt, debt collections, consumer protections, interest rates, payments (principal and interest), contractual obligations, etc. in order to provide a baseline for contextualizing the data. This will help address the question "how much does the consumer know about debt?" which should precede the question "how much does the consumer know about debt collection." These knowledge bases are integral in shaping the consumer's overall experience with debt collection and obtaining this baseline data would help to fully contextualize the overall responses.

- Share the types of demographic data that are going to be collected. This is useful in understanding the types of consumers that have experience with debt collection, some potential determinants of having experience with debt collection (such as income or credit score), and contextualizing the findings from this survey.

* * *

In evaluating the utility of this proposed new information collection, it is paramount that the survey instrument itself, as well as the methodology to administer the survey, are designed to yield meaningful data to help inform the Bureau's understanding of potential new debt collection disclosures. While the Bureau is proposing a more robust methodology for the Disclosure Survey than it has used in past research, given that the bulk of the survey instrument itself is measuring attitudinal variables or subjective interpretations – as opposed to objective measurements – the practical utility of the research is limited.

As a result, at best, the proposed Disclosure Survey will not reliably improve the Bureau's understanding of how consumers are likely to comprehend and respond to new debt collection disclosures. At worst, the Bureau could take the results of the flawed survey and improperly use them as a justification to require new debt collection disclosures that have not been adequately tested. In order to remedy these shortcomings and implement a more data-driven survey, ACA respectfully urges the Bureau to consider ACA's concerns and adopt the suggestions made herein to improve the Disclosure Survey.

Finally, given the importance of potential new disclosures to the Bureau's upcoming debt collection rulemaking efforts, ACA also respectfully urges the Bureau to refrain from moving forward with a proposed rule on debt collection until it has concluded and released the results of any debt collection research related to the rulemaking, including this potential new Disclosure Survey. Debt collection plays an integral role in our economy and it is absolutely critical that any new rules be based on empirical evidence derived from robust research and analysis.

ACA appreciates the opportunity to provide comments to the Bureau as it continues its study of the consumer debt collection market.

Respectfully submitted,

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August 4, 2017

Protecting Credit Since 1916
American Financial Services Association

August 3, 2017

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

Re: Debt Collection Quantitative Disclosure Testing
Docket No. CFPB-2017-0013
OMB Control Number: 3170-XXXX

To Whom It May Concern:

The American Financial Services Association (AFSA)[1] appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB) plan to survey individuals as part of the CFPB's research on debt collection disclosures. The CFPB intends on using the information gathered as part of this research study to help assess whether it can improve the clarity of forms used during debt collection in a potential debt collection rulemaking. The survey questions generally focus on debt collectors. AFSA commends the CFPB for keeping research on third-party debt collectors and creditors separate.

Our purpose in sending this letter is to reiterate the important distinction between creditors and debt collectors. Because the CFPB's survey is focused on debt collectors for the most part, and AFSA's members are creditors, AFSA is going to assume the survey does not apply to creditor practices. Thus, AFSA will only comment on one substantive issue in the survey.

AFSA has emphasized in previous responses to CFPB requests for comments and information on debt collection issues that there is a fundamental distinction between creditors and debt collectors. AFSA strongly advocates that the CFPB continue to treat creditors differently from debt collectors as it assesses collection practices.

Creditors are motivated to maintain the customer relationship. They originate, service, and collect a customer's account. Creditors benefit from a strong relationship with customers built on transparency and trust which helps to maintain a loyal customer base, as well as attract new customers. A free flow of information between creditors and customers keeps the customers informed and out of default.

On the other hand, debt collectors have not cultivated a relationship with a customer. They collect accounts that are usually in default at the time they receive them, and from customers with whom they have no prior or ongoing relationship because debt collectors collect on behalf of others or they buy customers' debts from others. Debt collectors have little incentive to maintain or improve customer satisfaction since their customers cannot "vote with their feet" and choose different debt collectors to collect their accounts. Indeed, Congress passed the Fair Debt Collection Practices Act (FDCPA) in 1977 to protect customers from debt collectors: "Unlike creditors, who generally are restrained by the desire to protect their goodwill when collecting past due accounts, independent

[1] 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.

collectors are likely to have no future contact with the consumer and often are unconcerned with the consumer's opinion of them."[2] (See the appendix for an excerpt of AFSA's response to a previous CFPB survey explaining the difference between creditors and debt collectors.)

Although our letter is focused on the difference between creditors and debt collectors – differences the CFPB recognizes – we do have a substantive point regarding how the CFPB presents the scenarios in the survey. In "Supporting Statement Part A," the CFPB states that:

> "[It] is considering whether consumers should receive disclosures in validation notices or subsequent communications regarding time-barred debts (i.e., debts that are older than the applicable state statute of limitations) or obsolete debts (i.e., debts that fall outside the generally 7-year reporting window included in the Fair Credit Reporting Act) or if other disclosures should be provided."[3]

We do not believe that the scenarios set out in the survey accurately reflect the purpose for which the questions were created. If the purpose of the survey questions is to determine whether a consumer would *know* the debt was "time-barred" or "obsolete," the eight-year-old debt referenced in the survey scenarios may not provide an accurate measure. A person could still be sued (Q04, Q05), and the debt may still appear on the person's credit report (Q06, Q07, Q08, Q09) eight years from the date of contract, depending on the length of the contract and the date of first delinquency on the contract. Both the statute of limitations and the credit reporting date of first delinquency are based on default, which are moving targets. (There are statute of limitations exceptions.)

For example, if a creditor charges off a borrower's account after the borrower defaults in the third year of the contract, and never brings the account current, the borrower could still be sued in states with statutes of limitations of, say, six years or more (e.g., Colorado, Iowa, etc.). In this example, the customer could still be sued until the ninth year. Likewise, the charge off will report on the borrower's credit report for seven more years from the date of first delinquency, which would be year ten in the scenario.

We do not know the CFPB's purpose in using a time period where the debt could still affect the customer's credit report or suit status. The CFPB should be aware that using a time period so close to the statute of limitations in many states and the credit reporting bar date could distort the results of the information the CFPB is trying to learn.

AFSA hopes that the CFPB will keep creditors separate from debt collectors and consider revising the survey for more accurate results. Please contact me by phone, 202-466-8616, or e-mail, bhimpler@afsamail.org, with any questions.

Sincerely,

Bill Himpler
Executive Vice President
American Financial Services Association

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[2] S. REP. 95-382, S. Rep. No. 382, 95TH Cong., 1ST Sess. 1977, 1977 U.S.C.C.A.N. 1695, 1977 WL 16047 (Leg.Hist.)
[3] The Consumer Financial Protection Bureau. *Debt Collection Quantitative Disclosure Testing*. June 5, 2017. Available at https://www.regulations.gov/document?D=CFPB-2017-0013-0002.

APPENDIX

May 6, 2014

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

Re: Debt Collection Survey from the Consumer Credit Panel
Docket No.: CFPB-2014-0005

To whom it may concern:

The American Financial Services Association ("AFSA")[1] welcomes the opportunity to comment on the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") debt collection survey ("Survey") to learn about consumers' experiences with debt collectors. With the exception of one major problem, this Survey is much better designed than the CFPB's previous survey on arbitration.

The significant problem is that that CFPB treats creditors and debt collectors as though there is no difference between them. The Survey questions do not distinguish between "debt collectors" as defined by the Fair Debt Collection Practices Act ("FDCPA") and those exempt from the FDCPA, such as creditors. This distinction is important for two reasons. First, creditors and those exempt under the FDPCA conduct business in a different manner than debt collectors. Second, the CFPB's FDCPA rulemaking will not extend to creditors, while its rulemaking on unlawful unfair, deceptive, or abusive acts or practices ("UDAAP") may apply to both debt collectors and creditors. Because there will be some differences in the rules applied to debt collectors and creditors, the Survey questions should be created to obtain separate lines of information relating to debt collector and creditor concerns. This will allow the CFPB to promulgate more appropriate rules relating to the laws that affect each.

AFSA also offers some suggestions to the Survey sample, design, and some specific questions in the Survey.

I. <u>Debt Collectors and Creditors</u>

For the Survey results to accurately portray consumers' experiences with the debt collection industry, the Survey should distinguish between debt collectors and those exempt under the FDCPA. The Survey incorrectly defines "debt collector" as "any person or company trying to collect on a debt." The definition of "debt collector" in the Survey goes on to state that a debt collector could be "the collections department of the original creditor (the person or company you

[1] AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. Its more than 350 members include a broad spectrum of consumer and commercial finance companies, auto finance/leasing companies, mortgage lenders, mortgage servicers, credit card issuers, industrial banks and industry suppliers.

got the loan from or originally owed the debt to), an attorney, a collection firm, or others trying to get you to pay the debt."

It is important to recognize and keep distinct the differences between a creditor and a debt collector. That was the intent of Congress when it passed the FDCPA. The Bureau should not paint all entities that collect amounts due with a broad brush under a premise that all of these entities should have to adhere to the same practices when attempting to collect debts. The amorphous use of the terms "debt collector" and "debt collection" without regard to the origination of the debt and the financial interest of the participant makes it appear that the Bureau believes there is no difference between creditors and debt collectors, which is simply not the case in practice or under federal law and many state laws.

Congress realized when it passed the FDCPA in 1977 that creditors do not operate like debt collectors. While much has changed since 1977 in the credit industry, creditors are still restrained by their inherent motivation to protect their goodwill when collecting overdue accounts – just like they were in 1977.[2] While consumers cannot choose their debt collectors, they usually make conscious decisions regarding which creditor to use. The Senate Report on the FDCPA states, "Unlike creditors, who generally are restrained by the desire to protect their goodwill when collecting past due accounts, independent collectors are likely to have no future contact with the consumer and often are unconcerned with the consumer's opinion of them."[3]

The Government Accountability Office affirmed Congress' distinction, stating, "Because first-party collectors use the issuers' name and are collecting from current customers, there is an emphasis on preserving the relationship with the consumer and mitigating the negative perception that consumers can have about their accounts being forwarded to collection."[4]

If the debt collection system includes the full universe of efforts to collect debts, then creditors are part of that system, although collection of debts is not their principal function. If the customer fails to pay, the first effort to collect on that debt is made by the creditor, typically by using its own employees or those of an affiliate or servicer that collects in the name of the creditor. As Congress realized when it enacted the FDCPA, creditors stand in a different place along the continuum of collecting what is due.

As defined by the FDCPA, the term "creditor" refers to, "any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another." For the purposes of analyzing the applicability of the Survey to "debt collectors" as defined under the FDCPA and those excluded from the definition of "debt

[2] U.S. House. Subcommittee on Consumer Affairs of the Committee on Banking, Finance and Urban Affairs. Statement re: H.R. 29, A Bill to Amend the Consumer Credit Protection Act To Prohibit Abusive Practices by Debt Collectors. March 9, 1977.
[3] S. REP. 95-382, S. Rep. No. 382, 95TH Cong., 1ST Sess. 1977, 1977 U.S.C.C.A.N. 1695, 1977 WL 16047 (Leg.Hist.)
[4] U.S. Gov't Accountability Office, GAO-09-748, *Fair Debt Collection Practices Act Could Better Reflect the Evolving Debt Collection Marketplace and Use of Technology* (2009), available at http://www.gao.gov/assets/300/295588.pdf

collector" under the FDCPA, we will refer to those excluded from the definition as "creditors." This definition does not include buyers of delinquent debt.

As defined by the FDCPA, the term "debt collector" refers to, "any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another."[5] The term "debt collector" does not include:

> "(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;
> (B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;
> (C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;
> (D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;
> (E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors; and
> (F) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person; or (iv) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor."[6]

Most AFSA members originate their own accounts or acquire accounts shortly after origination, and usually well before default. They service these accounts, accept agreed upon payments, and provide assistance throughout the life of an obligation. Accounts that go into default or do not pay timely ultimately affect a company's costs and risks. There is an incentive to maintain a customer in a "paying" relationship as the creditor assumes the risk of extending credit in the first place. As a report from the Tower Group states, "The cost to replace one bank card customer ranges from $160 to over $200, and issuers that work with their customers through this difficult period will retain customer for life."[7] In other words, creditors use debt collection as a customer retention strategy and are incentivized by avoiding costs to acquire new customers.

Unlike debt collectors, who usually collect only mature, static balances from consumers with whom they have no prior or ongoing relationship, creditors collect the money owed from their own customers with whom they have a long-term and continuous relationship and who may carry other balances with the creditor that are not delinquent. Unlike debt collectors, whose business is

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[5] 15 U.S.C. §1692a(6)
[6] *Ibid.*
[7] Moroney, Dennis, "*Revitalize the Credit Card Pre-Charge-off Collection Process and Improve the Bottom Line*." TowerGroup. April 2009. Quoted in "*Leveraging Collections as a Customer Retention Tool,*" by Julie Austin and Vytas Kisielius of Collections & Recovery, TSYS, Jan. 2010. Available at: http://www.ftc.gov/sites/default/files/documents/public_comments/ftc-workshop-debt-collection-2.0-protecting-consumers-technology-changes-project-no.p114802-00007%C2%A0/00007-58348.pdf

collecting on defaulted loans or accounts, creditors' primary business is selling goods on credit or making new loans, not collecting on defaulted loans or accounts. Unlike debt collectors, who do not have any incentive or desire to establish relationships with consumers for repeat business, creditors, such as indirect auto lenders, want to sell more cars for their parent companies – they desire repeat business.

Unlike debt collectors, whose sole mission is to collect defaulted debt without regard to any future relationship, creditors are interested in collecting what may be due, but they are also very interested in maintaining a continuing relationship with their customers. Creditors do not want or need charged-off or uncollectible debt precisely because that type of debt will not give creditors access to new customers to whom credit may be extended in the future. Creditors stand to lose the entire balance owed if they cannot collect the debt and salvage the relationship with their customer. Therefore, unlike creditors, the amount the debt collector must collect to recover its initial investment is quite small and its profit potential is very significant, as long as it collects more than it is paid for the accounts.

All of this means that debt collectors do not have substantial "skin in the game." They have little to lose. That accounts for some of the practices the FDCPA was designed to guard against. Creditors are at the opposite end of that spectrum. They have all of their "skin in the game," both their money and their valuable customers – customers they very much want to keep. Because Congress recognized that creditors have so much "skin in the game," Congress already decided that creditors should not be subject to the same debt collection restrictions as debt collectors.

If the Survey does not clearly distinguish between creditors and debt collectors, the Survey results will be misleading. The Survey will not inform the CFPB if a problem the Survey identifies from the data emanates from debt collectors or from creditors collecting their own debt. As stated in the Notice, the CFPB intends to use information collected through the Survey in its rulemaking concerning debt collection. If the CFPB cannot distinguish between problems consumers may experience with debt collectors and problems consumers experience with creditors collecting their own debt, it may create rules in areas where rules are not necessary, thereby creating unintended consequences such as additional red-tape for consumers, difficulty in getting future credit, customers feeling that they are not appreciated or trusted because of the nature of the disclosures, and higher costs to creditors (which will inevitably be passed along to consumers).

As explained above, it is not appropriate for debt collectors and creditors to be regulated identically because they are in very different businesses. Regulation in this space on creditors is unnecessary and would unnecessarily create difficult compliance burdens, cost of doing business, and credit risk issues for creditors. These issues could predictably lead to serious disruptions in the extension of consumer credit and increase the costs of credit to consumers. Congress did not intend that creditors be regulated like debt collectors, and the CFPB should follow Congress' intent as it seeks to regulate collection practices under the FDCPA. Congress realized when it passed the FDCPA and transferred the authority of the Federal Trade Commission to "prescribe rules, issue guidelines, or conduct a study or issue a report mandated under" under Section 1061 of the Consumer Financial Protection Act of 2010, that creditors operate differently than debt collectors, that creditors are different from debt collectors because their financial interests in debt differ radically, and that their motivations have different sources. Therefore rules applicable to debt collectors may be appropriate, but those rules would not be applicable to creditors.

If the CFPB determines to write rules regulating the debt collection practices of creditors and debt collectors, the Bureau should write two separate sets of rules. Rules that apply specifically to debt collectors should not apply to creditors and vice versa. The creditor rules should be carefully crafted to solve the problems (if any) that the CFPB determines exist in the creditor collection process. The CFPB should not presume that the problems it determines are caused by debt collectors necessarily apply equally to creditors.

The failure to distinguish between creditors and debt collectors also makes the survey difficult to answer. For example, Question #9 asks, "In the past two years, since [September 2012], have you been contacted (whether in person, by phone, mail or some other means) by a debt collector trying to recover a debt from you?" There are then 40 follow-up questions about the debt. It is unclear, since a debt collector can also mean a creditor in the survey, and debt is defined as "any money you owe," whether a monthly statement from a creditor constitutes being "contacted by a debt collector."

The CFPB should either: (1) Shorten the Survey and ask questions about debt collectors collecting debt and creditors collecting their own debt; or (2) Send one survey to half the sample asking questions about creditors collecting their own debt and another survey to the other half of the sample asking questions about debt collectors collecting debt. The surveys could ask questions more focused on the type of business involved, e.g., the creditor survey would not have a question about the creditor leaving a message stating it is attempting to collect a debt, as asked in Question #55.

… [Remainder of letter omitted for brevity.]

Sincerely,

Bill Himpler
Executive Vice President
American Financial Services Association

CBA | CONSUMER BANKERS ASSOCIATION
The Voice of the Retail Banking Industry

August 4, 2017

By electronic delivery to:
www.regulations.gov

Darrin King
Paperwork Reduction Act Officer
Consumer Financial Protection Bureau
1275 First Street, N.E.
Washington, D.C. 20002

RE: Information Collection Activities: Common Request [Docket No: CFPB-2017-0013]

Dear Mr. King:

The Consumer Bankers Association ("CBA")[1] appreciates the opportunity to respond to the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") request for comments on its survey instrument[2] to gather quantitative consumer data on debt collection disclosures ("Proposal").[3] Specifically, the Bureau seeks approval under the Paperwork Reduction Act ("PRA") to conduct a national web-based survey of 8,000 individuals as part of the CFPB's research on debt collection disclosures.[4] We ask the CFPB to amend the Proposal and re-issue it for public comment.

CBA is supportive of surveying consumers to gain relevant information, and we applaud the Bureau for carrying out this necessary research. Gathering this type of information from consumers and all stakeholders in the debt collection ecosystem would advance the Bureau's interest in protecting consumers without imposing unnecessary burdens on industry. We are

[1] The Consumer Bankers Association 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.

[2] CFPB, Debt Collection Quantitative Testing Survey Instrument, 60-day FRN (June 5, 2017) [*hereinafter* Survey Instrument].

[3] CFPB, Notice and Request for Comment, Debt Collection Quantitative Disclosure Testing, 82 Fed. Reg. 25779 (June 5, 2017).

[4] CFPB, Paperwork Reduction Act Submission, Information Collection Request, Supporting Statement A, Debt Collection Quantitative Disclosure Testing, OMB Control Number: 3170-XXXX (June 5, 2017) [*hereinafter* Supporting Statement A].

also supportive of new research that could measurably improve the ability of consumers to responsibly manage their debt obligations.

Unfortunately, the CFPB's Proposal is incomplete and unlikely to elicit comments from the public that would aid the Bureau in improving the consumer survey. While the survey instrument provides a good framework for assessing consumer knowledge and perceptions about debt collection practices, the Bureau did not provide the disclosure(s) that are the subject of the survey.[5] At the very beginning of the survey instrument, respondents are asked to read through a "Scenario" about a hypothetical debt collector sending a "financial notice" to a consumer on behalf of a "Main Street Store."[6] The respondent is then asked to provide an answer to a series of questions based on their personal knowledge and (we assume) the information provided in the financial notice. The Bureau did not provide this financial notice in its survey instrument, and it is unclear to us why this information was not offered for public inspection. We would recommend the CFPB amend its Proposal by including the financial notice and re-issue the Proposal for comment. Alternatively, the CFPB should include the financial notice during the second round of the PRA review process.

Based on information presented in the supporting statement, the missing financial notice could be referencing the validation notice required of debt collectors under the Fair Debt Collection Practices Act ("FDCPA").[7] More specifically, the financial notice may be referring to the model validation notice issued by the CFPB in draft form for the small business review panel on debt collection.[8] If so, we would caution its use as the language used in the model validation notice provides consumers with incomplete information and a false sense of security. It states, for example, "We must stop collection on any amount you dispute until we send you information that shows you owe the debt. If you write AFTER January 11, we are not required to send that information to you, but we must stop collection until we confirm that our information is correct."[9] Many consumers may interpret this language as permitting them to stop the collection process by simply disputing a debt. However, while certain parts of the collection process may be paused, other aspects proceed forward. For instance, unless the collector fails to verify or substantiate the debt, the delinquency period may continue to accrue. Therefore, the model validation notice should be designed to better inform consumers about their rights and obligations, and encourage them to communicate with collectors to resolve the debt or dispute.

The model validation notice is also likely to confuse consumers seeking to dispute a debt. Specifically, the model notice states: "Call us to dispute. But if you do call, we are not required to send you information that shows you owe the debt."[10] This statement is confusing and

[5] *See* Survey Instrument, *supra* note 2, at 4.
[6] *Id*.
[7] Supporting Statement A, *supra* note 4, at 2.
[8] Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking, Outline of Proposals Under Consideration and Alternatives Considered, app. F at 3 (July 28, 2016).
[9] *Id*.
[10] *Id*.

potentially harmful to consumers as it directs them to dispute a debt by calling the collector. Consumers would be better advised to submit their disputes in writing within 30 days of receiving the validation notice.[11]

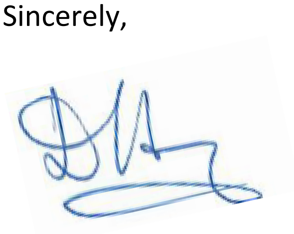
Going beyond the issue of the missing financial notice, CBA would recommend the Bureau use this survey to poll consumers on their preferred communication standards. The Bureau has conducted such research in the past,[12] but this is another opportunity to gather more data on issues related to contact frequency and channel preference. For example, Q01A of the survey instrument asking, “How would you contact the debt collector,” should incorporate additional responses, including “by email” and “by text messaging.”[13] We believe the inclusion of these specific responses will provide better information about channel preference then simply giving respondents an opportunity to offer such responses under “Other _____ .”[14]

On contact frequency, we would recommend the addition of a survey question about the consumer’s responsibility to engage with the collector. As we have stated in the past, distressed consumers are better served and obtain more favorable outcomes when they engage with creditors and collectors about their debt. In many respects, contact frequency is largely driven by whether the creditor or collector is able to communicate with the borrower about a series of missed payments. Therefore, it would be beneficial to get a better understanding of what consumers believe is their obligation to be active and engaged in the debt collection process. This type of data may be used to deliver better information or more effective disclosures to consumers.

*   *   *   *

Thank you for the opportunity to comment on the consumer survey proposal. If you have any questions or wish to discuss these issues further, please feel free to contact me.

Sincerely,



Dong Hong
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[11] *See* FDCPA § 809, 15 U.S.C. § 1692g.
[12] *See*, *e.g.*, CFPB, Consumer Experiences with Debt Collection, Findings from the CFPB’s Survey of Consumer Views on Debt (Jan. 2017).
[13] *See* Survey Instrument, *supra* note 2, at 4.
[14] *Id*.

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,

Thomas A. Durkin, Ph.D.

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July 29, 2017

Darrin A. King,
Paperwork Reduction Act Officer
Consumer Financial Protection Bureau
(Attention: PRA Office)
1700 G Street NW., Washington, DC 20552

OMB Control Number: 3170–XXXX
Docket No. CFPB–2017–0013
Debt Collection Quantitative Disclosure Testing

Dear Mr. King:

I write to urge approval of the request of the Consumer Financial Protection Bureau ("CFPB" or "Bureau") to conduct Debt Collection Quantitative Disclosure Testing, 82 Fed. Reg. 25770 (June 5, 2017). I am a Professor of Law at St. John's University School of Law where I have taught and written about consumer law for thirty years.[1] Of particular relevance to this comment is that I co-authored an article reporting on a survey of consumer understanding of debt collection validation notices, *Are Validation Notices Valid? An Empirical Evaluation of Consumer Understanding of Debt Collection Validation Notices*, 70 SMU L. Rev. 63 (2017), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2808531 (with Kate E. Walton).

The Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 et seq., obliges debt collectors to provide certain notices to consumers from whom they are attempting to collect debts. Among these is the so-called validation notice required by 15 U.S.C. § 1692g, which Congress intended to inform consumers of their rights when they are being dunned for payment of a debt. In 2010, Congress enacted the Dodd-Frank Act, which authorized the CFPB to promulgate regulations interpreting and implementing the FDCPA. See 15 U.S.C. § 1692l(d).

[1] I provide this information for identification purposes only. The positions stated herein are my own views and are not necessarily the views of St. John's University.

The Bureau needs to study consumer understanding of debt collection notices to perform properly its function of creating such regulations.

In our study, we showed four groups of consumers, ranging from 182 to 193 each, different versions of debt collection notices to determine the extent to which they understood them. The four different letters included one approved by the United States Court of Appeals for the Seventh Circuit in Zemeckis v. Global Credit & Collection Corp., 679 F.3d 632 (7th Cir.), cert. denied, 133 S.Ct. 584 (2012) as well as a second letter identical to the first but without the validation notice mandated by § 1692g (the "control letter"). We found that on most questions, respondents did not show significantly better understanding of the validation notice in the *Zemeckis* letter than on the control letter—which did not include any validation notice at all. More than half the *Zemeckis* letter respondents seemed confused by the notice's phrasing about when the collector would assume the debt to be valid. About a quarter did not realize they could request verification of the debt, and nearly all who realized they could seek verification also thought that an oral request was sufficient even though both the statute and notice specify that a writing is required. More than a third of respondents thought that if they did not meet the thirty-day deadline specified in the validation notice for disputing the debt, they would have to pay the debt or could not defend against a suit to collect it even if they did not owe the debt. Under the standard the FTC uses for determining deception in surveys, the *Zemeckis* notice would be found deceptive. Our article discusses these and other matters more fully.

In a nutshell, our study found that existing notices do not serve the function Congress intended for them of informing consumers of their rights. Unfortunately, we do not know what kind of notice is needed to accomplish that goal. To date, ours has been the only publicly available study of consumer understanding of validation notices, and given our resource limitations, we tested only four forms of a debt collection letter and only two notices. Much more information is needed to design a notice which will achieve Congress's ambition. The need for information on this issue is demonstrated by the fact that an organization of judges--the National Conference of Bankruptcy Judges Endowment for Education—funded our research, but unfortunately we could do little more than begin the study of consumer understanding of debt collection notices.

The Bureau is tasked with creating a notice which will achieve Congress's goal, within the framework of the statute. To accomplish that assignment, the CFPB must display to consumers various versions of a notice to determine which is most effective. A survey of the type the Bureau wishes to conduct will have immense practical utility in drafting an appropriate notice. I hope that its request is approved.

Very truly yours,

Jeff Sovern

COMMENTS
to the
Consumer Financial Protection Bureau
on its

Debt Collection Quantitative Disclosure Testing

OMB Control Number: 3170–XXXX
Docket No. CFPB-2017-0013
82 Fed. Reg. 25779

By the
National Consumer Law Center
On behalf of its low-income clients

August 4, 2017

As announced in the Federal Register, the Consumer Financial Protection Bureau (CFPB) plans to survey 8,000 individuals as part of its research into effective debt collection disclosures. We applaud the CFPB for taking a data-driven approach to assessing the effectiveness of disclosures to ensure that consumers comprehend their rights pertaining to debt collection. Consumer testing is a critical step to ensure that the CFPB promulgates the most effective regulations in its ongoing debt collection rulemaking.[1]

We offer several recommendations for how the proposed disclosure testing can be used most effectively to enhance consumer protection.

1. **Examine whether the least sophisticated consumer understands any disclosure, not merely whether one disclosure outperforms another.**

Supporting documents for the notice and request for comment state that the CFPB intends to "conduct an experimental research design and compare differences between groups to learn which debt collection disclosure forms work best to improve comprehension."[2] We are concerned that identifying the disclosure that *works best* is insufficient; the CFPB must not be satisfied with a disclosure unless it is understandable to the least sophisticated consumer. Factors such as education level, prior experience with debt collection, and general financial literacy could all be used as proxies for consumer sophistication when assessing disclosures. The CFPB should report results of its consumer testing that are broken out by these categories to demonstrate that the potential disclosure is intelligible to the least sophisticated consumer.[3]

Moreover, we urge the CFPB to strive to test consumer understanding in other subgroups. A disclosure that "works best" for one group may work poorly for another group. In addition to analyzing comprehension for the least sophisticated consumer, the CFPB should also analyze and report survey results by race, age, income, gender, or state of residence. The CFPB should not be satisfied with a disclosure that works well overall but fails to result in high comprehension among certain subgroups.

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[1] 68 Fed. Reg. 67,848 (Nov. 12, 2013).
[2] Bureau of Consumer Financial Protection, *Debt Collection Quantitative Disclosure Testing, Supporting Statement Part B*, p. 3, available at https://www.regulations.gov/.
[3] The notice and request for comment states that the contractor "will provide tabulations at the aggregate level" and that "the CFPB may share aggregate findings from the survey with the public as appropriate." Bureau of Consumer Financial Protection, *Debt Collection Quantitative Disclosure Testing, Supporting Statement Part A*, p.11, available at https://www.regulations.gov/. It is not clear whether the CFPB plans to report the findings broken out by any subgroups.

2. **Use caution in drawing conclusions about consumer comprehension on the basis of the survey findings.**

The proposed consumer testing will be carried out in an artificial setting (the online survey) rather than being tested in real-world debt collection. As a result, there is a risk that the survey will generate overly optimistic estimates of the level of comprehension among ordinary consumers. We therefore caution the CFPB against overstating the value of the results. Our concerns about overestimation are threefold:

(a) Survey respondents are likely to be more attentive and focused than consumers would be in a real debt collection setting.

In an online survey, respondents are asked to set aside a time to concentrate on an artificial task at the behest of the researchers, in exchange for payment. Under these conditions, survey respondents are likely to show exceptional focus and motivation. In contrast, consumers who receive debt collection notices in the real world are likely to have any number of time-constraints or distractions that prevent them from carefully reading any materials (e.g., caregiving duties for another family member, the need to rush off to a second job, etc.). As a result, survey respondents are likely to perform better on a comprehension quiz than real-world consumers.

(b) The online survey may differ from the context in which the consumer would encounter the disclosure.

Supporting documents for the notice and request for comment state that survey respondents "will be asked to read a validation notice and then answer questions based on a hypothetical situation."[4] As such, it appears that in the online survey, the disclosure language being tested (e.g. proposed revisions to the content and layout of the validation notice and proposed time-barred or obsolete debt disclosures)[5] will be embedded within the validation notice. This is appropriate because it will allow the survey to simulate how consumers would encounter the information in real-world written materials.

However, it appears that for some participants, the survey specifically identifies certain language and then asks questions about that language. For example, Question 25a says:

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[4] Bureau of Consumer Financial Protection, *Debt Collection Quantitative Disclosure Testing, Supporting Statement Part A*, p.4, available at https://www.regulations.gov/.
[5] *Id.* at pp.3-4.

> Please look at this text that appears on the notice. You may or may not have already noticed this text when reading the notice.[6]

Since this task directs respondents' attention to the relevant language, participants' responses to all subsequent comprehension questions are likely to show inflated accuracy. We strongly recommend against these types of questions because they differ so much from the real-world use of these disclosures. However, if the CFPB does retain these questions, it should report separately about the performance among respondents who are and are not specifically directed to the relevant language. If the disclosure "works" among those who were specifically directed to the relevant language, the CFPB should not be satisfied. The disclosure must "work" among those who have not been directed to the relevant language because consumers who encounter the notice in the real world will not have the benefit of being directed to the specific language.

Moreover, there is no mention of whether the survey will include the statement of rights, which the CFPB has proposed requiring collectors to include with that notice.[7] To adequately mirror real-world conditions, including the amount of information consumers receive all at once, the CFPB should present the statement of rights alongside the validation notice.

If the statement of rights is omitted from the online survey, the survey findings will not provide a reliable guide to real-world consumer comprehension. Information overload is a well-documented impediment to comprehension.[8] Accordingly, the CFPB's test of the comprehensibility of a disclosure must mimic the real complexity and amount of information a consumer is likely to face. If the survey environment is less overwhelming than the real environment, the survey will not capture the effects of any information overload.

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[6] Bureau of Consumer Financial Protection, *Outline of Survey Items*, p. 15 Pre_Q25a, available at https://www.regulations.gov/

[7] Bureau of Consumer Financial Protection, *Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking: Outline of Proposals Under Consideration and Alternatives Considered* (July 28, 2016) ("the proposals under consideration would require debt collectors to provide consumers with a one-page statement of rights document (Statement of Rights)").

[8] *E.g.*, Marin J. Eppler & Jeanne Mengis, *The Concept of Information Overload: A Review of Literature from Organization Science, Accounting, Marketing, MIS, and Related Disciplines*, 30 INFORMATION SOC. 325 (2010) ("Researchers across various disciplines has found that the performance (i.e., the quality of decisions or reasoning in general) of an individual correlates positively with the amount of information he or she receives—up to a certain point. If further information is provided beyond this point, the performance of the individual will rapidly decline. . . . The burden of a heavy information load will confuse the individual, affect his or her ability to set priorities, and make prior information harder to recall.").

(c) Survey respondents may be more likely to refer back to the disclosure for help answering comprehension questions.

The notice and request for comment notes that respondents will be able to refer back to the validation notice at any time during the survey. This feature may lead to overestimation of comprehension, because respondents may be more inclined to refer back to the communication for help answering the survey questions than consumers will be.

For instance, Question 28 asks survey respondents to "Imagine that two months have passed after Person A received the notice, and Person A has not taken any action in response to the notice. Now Person A is applying for a car loan and the dealer is checking Person A's credit report. Do you think the debt is legally allowed to appear on Person A's credit report?"[9] A survey respondent who does not know the answer to this question could easily click back to reread the notice and answer correctly. But a consumer who is in the midst of applying for a car loan may fail to dig up the letter received earlier which discloses the relevant information. In this way, the survey respondents' performance may be artificially enhanced by the survey context.

To address these concerns, the CFPB should take note of how often participants use the "go back" feature as a crutch. The notice and request for comment states that the contractor will provide "paradata, helping us understand how people interact with the survey (i.e., how often they refer to the validation notice and for how long, and whether they return to previous questions during the survey)."[10] We urge the CFPB to report (1) how often each question prompted respondents to click back to the validation notice; (2) how long participants spent on each survey question and the validation notice; and (3) how often participants changed their answers to each question. We also urge the CFPB to report all initial answers that were later changed.

3. Test auditory comprehension of an oral disclosure.

Debt collectors often communicate with consumers by phone. Auditory comprehension, however, is quite different from reading comprehension.[11] The same language that results in strong comprehension among survey respondents who read the written disclosure may result in weak comprehension among consumers who hear

[9] Bureau of Consumer Financial Protection, *Outline of Survey Items*, p. 17, available at https://www.regulations.gov/
[10] Bureau of Consumer Financial Protection, *Debt Collection Quantitative Disclosure Testing, Supporting Statement Part A*, p. 5, available at https://www.regulations.gov/.
[11] *E.g.*, Erica B. Michael, Timothy A. Keller, Patricia A. Carpenter, & Marcel Adam Just, *fMRI Investigation of Sentence Comprehension by Eye and by Ear: Modality Fingerprints on Cognitive Processes*, 13 HUM. BRAIN MAPPING 239 (2001) ("even when written and spoken language have the same content, the two modalities provide different information and make different demands on the comprehender.").

the language recited orally. We, therefore, urge the CFPB to administer a phone survey or embed an audio file in an online comprehension survey. In this test, the survey respondent should not be permitted to refer back to the disclosure (e.g., replay the audio) when answering comprehension questions. This setup would be most faithful to real-world conditions.

4. **Include more open-ended questions to test comprehension.**

In addition to multiple-choice questions, the CFPB should provide participants with open text boxes and ask them to explain key concepts in their own words. Their responses may reveal nuances that a multiple-choice survey glosses over.[12]

5. **Ensure that each unique treatment is tested on a sufficiently large and diverse pool of respondents.**

We applaud the CFPB's plans to recruit 8,000 participants. Yet it is not clear from the notice and request for comment how many separate interventions (or combinations of interventions) the CFPB plans to test. If the participants are spread across too many conditions, there will not be enough statistical power to allow for comparisons of key subgroups. To avoid this problem, the CFPB should ensure that each unique combination of disclosures is tested on a sample that is large and diverse enough to permit comparisons of subgroups (e.g., high school graduates to college graduates).

[12] *E.g.*, Yasuhiro Ozuru et al., *Comparing Comprehension Measured by Multiple-Choice and Open-Ended Questions*, 67 CANADIAN J. EXPERIMENTAL PSYCHOL. 1196 (2013) (finding that "open-ended and multiple-choice format questions measure different aspects of comprehension processes").

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Submitted *via* Regulations.gov

August 2, 2017

Mr. Darrin King
Paperwork Reduction Act Officer
Consumer Financial Protection Bureau
1275 First Street, N.E.
Washington, D.C. 20002

Re: Agency Information Collection Activities -Docket No. CFPB–2017–0013

Dear Mr. King:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB or Bureau) request for comment concerning a new information collection titled, ''Debt Collection Quantitative Disclosure Testing.'' CUNA represents America's credit unions and their 110 million members.

On July 14, CUNA with several other trade associations representing participants in the financial services marketplace, sent a request to the CFPB seeking additional information on the request for approval under the Paperwork Reduction Act (PRA) to conduct a national web-based survey of 8,000 individuals as part of the Bureau's research on debt collection disclosures. According to the notice in the *Federal Register*, the survey seeks to examine "consumer comprehension and decision making in response to debt collection disclosure forms." CUNA appreciates the CFPB's efforts to better understand the debt collection market and believes the survey could be valuable. However, since the additional requested information has not been provided to the public, it is impossible to comment on this notice in its current form.

As previously noted, although the Bureau has provided a draft survey instrument and supporting statements, the materials provided in its submission to the Office of Management and Budget (OMB) are incomplete. The survey instrument asks respondents to answer a series of questions after reading a "financial notice," but the notice has not been included in the submission to OMB. Similarly, on page 15 (Pre_Q25a) of the draft survey, respondents are asked to review "text that appears on the notice … which could appear on the notice in some cases, even though it was not on the version you saw" and to respond to a series of questions. However, that text has not been provided in the Bureau's submission to OMB. Without the notice and text, the public cannot meaningfully comment on the survey instrument.

As such, we urge you to reissue this notice with the additional information so that the public has an opportunity to provide comment. If you have questions concerning our letter, please feel free to contact me.

Sincerely,

Leah Dempsey
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RECEIVABLES MANAGEMENT ASSOC.
SETTING THE GLOBAL STANDARD

August 4, 2017

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By Electronic Submission and Post

Director Richard Cordray
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Re: Agency Information Collection Request, "Debt Collection Quantitative Disclosure Testing," OMB Control No. 3170-XXXX, Docket No. CFPB-2017-0013

Dear Director Cordray:

The Receivables Management Association ("RMA," formerly known as DBA International) greatly appreciates the opportunity to provide comments on a new information collection, titled, "Debt Collection Quantitative Disclosure Testing." As background, RMA is the nonprofit trade association that represents more than 575 companies that purchase performing and nonperforming receivables on the secondary market. RMA member companies work in a variety of financial services fields, including debt buying companies, collection agencies, law firms, originating creditors, international members, and industry-related product and service providers. RMA's Receivables Management Certification Program and its Code of Ethics set the "gold standard" within the receivables industry due to its rigorous uniform industry standards of best practice which focuses on protecting consumers.

The role the RMA Certification Program has played in the industry

Rolled out in 2013, RMA's industry certification program, which sets best practices and industry standards, is an important pro-consumer effort by the credit and collections industry. The result has been to provide consumers the protections they need and deserve, without putting up artificial barriers to the professional and ethical collection of legitimate accounts receivables.

While the program was first designed to certify asset buyers, it has been expanded to now include certifications for law firms, collection agencies, and most recently brokers. Currently, 228 individuals and 145 companies hold the respected certifications. These individuals and companies are committed to upholding standards that in vast majority of cases exceed current state and federal laws, regulations and rules. A review of the Consumer Financial Protection Bureau ("CFPB") Consumer Response Portal shows that more than 50 percent of the RMA's certified companies (the vast majority being small businesses) have not had a single complaint/inquiry on the CFPB portal since the CFPB started tracking debt collection complaints/inquiries in July 2013. In fact, only two percent of certified companies have a complaint/inquiry volume of greater than one percent.

Highlights of the certification program include robust a commitment to ongoing education, third party audits, a company Chief Compliance Officer ("CCO") and compliance with robust standards including:

- Vendor Management: Ensuring that anyone with access to or contact with consumer accounts adheres to the same robust standards as the certified company, including assurance of data security system/policies.
- Documentation: Compliance with a comprehensive list of data and documentation requirements that exceeds all state and federal requirements.
- Consumer Disputes: Multiple standards requiring a CFPB consumer portal, a well-defined dispute policy, a credit reporting standard, direct access to the CCO, and a prohibition on the sale or resale of accounts that are currently in dispute or have been identified as fraud combine to provide a previously unseen level of consumer protection.
- Portfolio Sale Standards: Insuring the integrity of the account information and transparency in the sale and resale process is paramount. Standards on chain of title, due diligence in the portfolio review, and reps and warrants in the purchase and sale agreement combine to ensure the integrity of the account information providing important consumer protections.

RMA was pleased to see that the certification program was recognized throughout the debt collection rulemaking Small Business Regulatory Enforcement Fairness Act ("SBREFA") outline. Additionally, as original creditors see the importance of the certification program, we are seeing an increase in the number of creditors requiring that their approved buyers are RMA certified.

Debt Collection Quantitative Disclosure Testing

We understand that the goal of the survey is to "explore consumer comprehension and decision making in response to debt collection disclosure forms."[1] However, it is the CFPB's intent to overweight the sample population by creating a sample consisting of approximately two-thirds of respondents that have "experienced' debt collection in the past 24 months."[2] In the same paragraph, the CFPB estimates that this group of consumers with recent debt collection experiences constitutes 30-35% of the actual credit consumer population.[3] We are concerned that overweighting the sample will produce survey results that do not accurately reflect the comprehension and decision making of the broader consumer population.

Additionally, we commend the CFPB's consideration of using a storyline approach to the survey. However, we are concerned that the use of hypothetical scenarios may be confusing to respondents. Similarly, the use of limited hypothetical scenarios means that respondents are not

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[1] 3170-XXXX Debt Collection Quantitative Disclosure Testing SS Part A 60-day FRN, *available at* https://www.regulations.gov/document?D=CFPB-2017-0013-0002.

[2] 3170-XXXX Debt Collection Quantitative Disclosure Testing SS Part B 60-day FRN, *available at* https://www.regulations.gov/document?D=CFPB-2017-0013-0003.

[3] *Id*.

providing data with respect to their personal experiences with debt collection. On one level, such confusion could produce results that show a lower degree of comprehension and decision making in comparison to a survey that asks for personal experiences. On another level, the methodology diminishes the valuable personal experiences, or “stories,” of consumers.

Conclusion

RMA continues to embrace and support the CFPB debt collection rulemaking process as the need to modernize the Federal Debt Collection Practice Act and to provide needed clarity to allow industry participants to be compliant. RMA members embrace reasonable, fair and balanced rules, as long as the requirements are technologically feasible, the data is available, and they are imposed on a prospective nature, insuring the value of the billions of dollars currently in collection is not diminished for accounts that new data and documentation requirements are retroactively required.

RMA appreciates the opportunity to comment on efforts that will ensure a proper balance of consumer protections and the lawful collection of consumer debt. Please do not hesitate to contact me if we can be helpful. We look forward to working together to create a consumer credit market with fair and transparent collection practices.

Sincerely,

Jan Stieger,
Executive Director