



The Voice of the Retail Banking Industry

August 22, 2014

Ashwin Vasan
Chief information Officer
Consumer Financial Protection Bureau
(Attention: PRA Office)
1700 G St., NW
Washington, D.C. 20552

RE: Information Collection – Debt Collection Survey from the Consumer Credit Panel, OMB Control Number 3170-XXXX [Docket No: CFPB-2014-0017]

Dear Mr. Vasan:

The Consumer Bankers Association (“CBA”)¹ appreciates the opportunity to respond to the Consumer Financial Protection Bureau’s (“CFPB” or “Bureau”) second request for comments on its proposed “plans to conduct a mail survey of consumers to learn about their experiences interacting with the debt collection industry.”²

In our first letter to the CFPB on the initial draft of the survey, CBA made several recommendations to improve the survey in order to gather useful debt collection information, including: clearly distinguishing between creditors and third-party debt collectors; randomizing the consumer survey population, rather than “oversampling” consumers with debt in collections or low credit scores; and verifying the accuracy and validity of responses given by survey respondents.³

Based on our review of the revised debt collection survey and its supporting documentation, it appears the Bureau gave some consideration to only one of our recommendations – distinguishing creditors from debt collectors – while leaving unaddressed our other concerns. Unfortunately, the lack of meaningful consideration for these methodological concerns leads us to conclude the survey, as proposed, will not serve as a useful basis for fully understanding consumer experiences with the debt

¹ The Consumer Bankers Association is the trade association for today's leaders in retail banking - banking services geared toward consumers and small businesses. The nation's largest financial institutions, as well as many regional banks, are CBA corporate members, collectively holding two-thirds of the industry's total assets. CBA's mission is to preserve and promote the retail banking industry as it strives to fulfill the financial needs of the American consumer and small business.

² 79 Fed. Reg. 42764, 42765 (July 23, 2014).

³ CBA Comment Letter (May 6, 2014), *available at* <http://www.cbanet.org/documents/2014%20Comment%20Letters/2014-05-06%20CBA%20Comment%20Letter%20to%20CFPB%20on%20Debt%20Collection%20Survey.pdf>.

collection system. Therefore, we cannot support the issuance of the survey and would ask the Office of Management and Budget to deny the Bureau's information collection request ("ICR").

I. The CFPB's Debt Collection Survey Should Clearly Distinguish Between Creditors and Debt Collectors.

In our letter in response to the Bureau's first request for comments on the proposed debt collection survey, we urged the CFPB to clearly distinguish between first-party creditors and third-party collectors.⁴ We believed then, as we do now, that a clearer distinction between the two is likely to show borrowers have materially different debt collection experiences with creditors than they do with collectors.

CBA certainly agrees with the CFPB's assessment that "it may be beneficial to maintain this distinction more clearly."⁵ And, we certainly appreciate the inclusion of clear definitions for "creditor" and "debt collector" in the revised survey.⁶ However, the proposed survey will not provide the Bureau with an opportunity to understand the distinctions that exist between creditors and debt collectors as the survey's design makes it difficult to separate consumer responses directed towards creditors from those aimed at debt collectors. Indeed, of the 65 questions included in the survey, only seven in section C (questions 27-33) and two in section D (questions 37-8) allow the reader to track a consumer's specific experience with either a creditor or debt collector.

Furthermore, the survey's lack of precision in distinguishing between creditors and debt collectors actually works at odds with one of the most important goals for the CFPB's debt collection rulemaking process. As stated in the Bureau's Advance Notice of Proposed Rulemaking:

[T]he Bureau believes it is important to examine whether rules covering the conduct of creditors collecting in their own names on their own debts that arise out of consumer credit transactions are warranted ... In addition to seeking input on whether any proposed rules should cover creditors, the *Bureau seeks input on the basic premise that it should generally seek to harmonize any rules it develops for third-party collectors and first-party collectors, except to the extent that the law, facts, or policy considerations warrant different treatment.*⁷

CBA does not believe the proposed survey can provide a useful examination of whether creditors should be subject to new conduct rules, nor will it provide the Bureau with the facts it seeks to determine if creditors and collectors should be governed by harmonized rules. We therefore urge the Bureau to reconsider the survey's design and make the

⁴ *Id.*

⁵ CFPB, Information Collection Request – Debt Collection Survey from the Consumer Credit Panel (OMB Control Number: 3170-XXXX), at 9 (July 23, 2014).

⁶ CFPB, The Consumer's Perspective on Credit and Debt: A survey by the Consumer Financial Protection Bureau to learn about Americans' experiences with debt and debt collection, at 3 (draft, July 23, 2014).

⁷ 78 Fed. Reg. 67848, 67853 (Nov. 12, 2013) (emphasis added).

necessary changes needed in order to precisely distinguish between consumer experiences with creditors and debt collectors.

II. The CFPB's Debt Collection Survey Should Distinguish Between Different Types of Creditors

Since we submitted our letter to the CFPB on its initial draft survey, advancements in our understanding of the creditor side of the debt collections industry has made clear to us the need for a better understanding of consumer relationships with different types of creditors. There is reason to believe consumers may have very different experiences with banks than they do with nonbank lenders. While banks have long been subject to comprehensive supervision by several federal regulators, nonbank lenders have generally been supervised – if at all – by the several states. This difference in the scope and character of regulatory supervision may have real-world effects on the manner in which bank and nonbank lenders interact with their customers; at the very least, this line of inquiry is worthy of study and consideration.

CBA suggests the survey be amended to distinguish between different types of creditors. We believe gathering this information will improve the survey and enhance the quality, utility and clarity of the information to be collected. Moreover, the necessary changes to the survey would be relatively simple and straightforward. For example, in section C of the revised survey (“Your most recent debt collection”), the prompt to “*skip to 25*” could be removed from question 21. Then, question 27 could be placed under question 21.⁸ This way, the survey could separate creditors from debt collectors, and distinguish between bank and nonbank lenders. We believe similar changes in other sections of the survey would allow the Bureau to elucidate the differences that may exist between bank and nonbank lenders, and the way in which they interact with their respective customers. These differences, once discovered, can inform the Bureau’s rulemaking process, as there is no reason why all creditors and collectors should be subject to the same rules and regulations.

III. The CFPB Should Randomly Select its Survey Population to Obtain a More Accurate Representation of Consumer Experiences with Debt Collections

In the original ICR filed in support of the proposed debt collection survey, the Bureau planned to engineer its survey population by “oversampling” for consumers with a recent history of collections activity or consumers with “lower credit scores or other factors that indicate a greater likelihood of having debt collections that are not reported to the credit reporting agencies.”⁹ CBA firmly disagreed with this approach, as it would unnecessarily introduce selection bias into the survey. Instead, we recommended the Bureau limit its survey to a randomly selected consumer population in order to obtain a more accurate representation of consumer experiences with debt collection. We further noted that oversampling consumers with adverse debt repayment histories would skew the survey

⁸ CFPB, *supra* note 6, at 6-7.

⁹ CFPB, Information Collection Request – Debt Collection Survey from the Consumer Credit Panel (OMB Control Number: 3170-XXXX), at 10-11 (Apr. 15, 2014).

results as these consumer segments are much more likely than the general population to hold unfavorable views of, or even animus towards, creditors and collectors.

CBA finds the Bureau has chosen not to change its survey population in its new ICR.¹⁰ At the risk of repetition, we reiterate our concerns with the proposed survey population. However, if the CFPB is unwilling to revise its methodology, we ask that a second debt collection survey be sent to a representative sample of consumers. This second survey would, of course, have to be calibrated for a broader audience than the one chosen for this survey, but the underlying goal would remain the same: learn more about how consumers interact with the debt collection system.

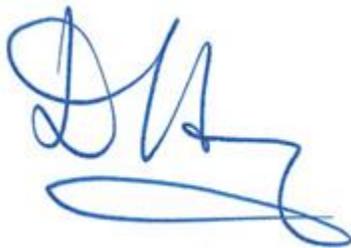
IV. The CFPB Should Verify the Legitimacy of Consumer Debt Collection Disputes

As we note above, the Bureau's survey design and methodology introduces a significant risk the information collected will be inaccurate and unrepresentative of average consumer experiences with debt collection. The oversampling of consumers with a higher probability of bias against, or hostility to, creditors and collectors may lead to numerous instances of "gaming the system," where some respondents will provide specious or misleading answers to the survey. Therefore, we again urge the CFPB to verify the accuracy and validity of the responses given by survey participants. Without taking this additional step, there is a real risk that bogus responses will materially shift the outcome of the survey. Such a result would not be in the interests of industry or the consumers it serves.

V. Conclusion

Thank you for the opportunity to comment on the proposed survey on consumer experiences with debt collection. If you have any questions or wish to discuss these issues further, please feel free to contact me at (202) 552-6360.

Sincerely,



Dong Hong
Regulatory Counsel
Consumer Bankers Association

¹⁰ See CFPB, Information Collection Request – Debt Collection Survey from the Consumer Credit Panel, Supporting Statement, Part B (OMB Control Number: 3170-XXXX) (July 23, 2014).