

**Supporting Statement for the
Studies to Develop and Test Consumer Regulatory Disclosures
(FR 1380; OMB No. 7100-0312)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the voluntary collection of information to develop and test consumer disclosures, the Studies to Develop and Test Consumer Regulatory Disclosures (FR 1380; OMB No. 7100-0312). The studies are used to gather qualitative and quantitative information directly from consumers (consumer studies), and also to gather qualitative and quantitative information from financial institutions offering consumer financial products and services and from other stakeholders, such as brokers, appraisers, settlement agents, software vendors, and consumer groups (stakeholder studies).

This information collection is specifically targeted to the development of consumer regulations. It would enable the Federal Reserve to conduct surveys in order to obtain data from consumers and stakeholders without publishing a *Federal Register* notice in advance of every survey data collection as it is not always feasible to publish notice of each survey and wait for the completion of the 60-day public comment period to obtain timely and accurate data. The consumer studies gather information about individual consumers' knowledge of, and attitudes toward, consumer disclosures used by financial institutions in compliance with Federal Reserve regulations. The consumer studies may also enable the Federal Reserve to develop and test consumer education resources. The stakeholder studies gather information from the institutions offering financial products and services and other third parties regarding products, disclosure, marketing, advertising, and sales practices. With approval of the information collection the Federal Reserve would be able to conduct up to 3,300 hours of consumer testing and up to 17,500 hours of industry surveys per year. The maximum annual burden for this information collection is estimated to be approximately 21,000 hours.

Background and Justification

Congress has assigned the Federal Reserve Board the duty of implementing a number of federal laws intended to protect consumers in credit and other financial transactions and to ensure that consumers receive comprehensive information and fair treatment. The Federal Reserve Board is responsible for drafting regulations and interpretations to carry out the purposes of these consumer protection laws. These studies are used in support of the Federal Reserve's development and implementation of regulatory revisions.

The Federal Reserve seeks to develop and implement regulatory policies based on information garnered from both consumers and industry that would enable consumers to make better financial decisions based on sound information and a clear understanding of how to use that information to meet their personal needs. Accordingly, the Federal Reserve periodically surveys consumers and financial institutions to identify key issues and review and evaluate

consumer disclosures for effectiveness. However, direct information about consumer knowledge and use of disclosure statements would best be obtained through studies of individuals and financial institutions that extend credit and provide other financial services.

In addition to this information collection, the Federal Reserve currently has three approved information collections which enable the Federal Reserve to conduct frequent surveys of consumers and several other collections that survey the industry. However, none of these approved information collections specifically solicit feedback on consumer disclosures.¹ Accordingly, this information collection, which is specifically targeted to the development of consumer regulations, is necessary to enable the Federal Reserve to avoid the inefficient process of having to periodically extend the comment period for regulatory proposals in order to obtain additional data from consumers about the effectiveness of consumer disclosures.

Description of Information Collection

In order to better understand consumer decision-making and to make disclosure statements more comprehensible and usable, the Federal Reserve proposes to conduct studies of consumers, financial institutions, and other stakeholders. The consumer studies may take the format of focus group discussions, one-on-one interviews, telephone interviews, mall intercept testing, written questionnaires (paper or web based), or controlled experiments. The size of consumer focus groups would vary depending on the topics discussed and the format of the sessions. Experience has shown that focused discussions of not more than 10 to 12 participants are most productive.

The studies may be conducted through an external consulting and research firm, which would be chosen in a competitive bidding process.² The research instruments may be developed by the Federal Reserve alone or jointly with the firm selected by the Federal Reserve. The firm would be responsible for following the sampling protocol established by the Federal Reserve, conducting the study, preparing a data file containing the responses, computing analysis weights, and documenting all study procedures. Data editing and analysis of survey results would be conducted solely by the Federal Reserve, the firm, or jointly.

In the subject areas covered by the consumer studies, much of the information needs to

¹ The Studies of Board Publications (FR 1373a,b; OMB No. 7100-0301) comprise two studies. The FR 1373a is used to: 1) conduct periodic reviews and evaluations of consumer education materials, and 2) develop and evaluate consumer education materials under consideration for distribution. The FR 1373b data help determine if the Board should continue to issue certain publications and, if so, whether the public would like to see changes in the method of information delivery, frequency, content, format, or appearance. The Ongoing Intermittent Survey of Households (FR 3016; OMB No. 7100-0150) obtains household-based information tailored to the Federal Reserve's policy, regulatory, and operational responsibilities. The Survey of Consumer Finances (FR 3059; OMB No. 7100-0295) collects data on the assets, debts, income, work history, pension rights, use of financial services, and attitudes of a sample of U.S. families.

² Some survey firms used by the Federal Reserve to conduct past surveys include the University of Michigan's Survey Research Center, Macro International Inc., Rockbridge Associates Inc., and Kleimann Communications Group.

be obtained directly from consumers, either because (1) personal opinions or evidence of understanding are sought or (2) the desired information is not compiled by financial institutions, or the information is compiled and is proprietary.

Consumer-focused studies may seek to ascertain their:

- views about specific financial products and practices;
- ability to notice, comprehend, and use disclosures;
- preferences about the delivery of information (content, format, timing, and method);
- comprehension of particular deliveries of information (electronic and paper media);
- abilities to use a particular method of delivery, such as email or Internet; and
- skills and practices in searching, shopping, and negotiating for credit or other financial products.

In addition, the stakeholder studies may survey financial institutions, other third parties involved in the development and sales of consumer financial products and services, and consumer groups to obtain information about product offerings and disclosure and marketing practices.

Stakeholder-focused studies may seek to ascertain the:

- effect of disclosure, marketing, and sales practices of lenders, servicers, and brokers;
- terms of credit agreements;
- influence of the Community Reinvestment Act (Regulation BB; CRA) and other fair lending regulations on the financial institution's involvement in lending and community development; and
- effect of marketing and other industry practices on the availability and price of credit to consumers of different races, ethnicities, genders, incomes, and geographic locations.

If approved, this information collection would allow the Federal Reserve to collect information pertaining to all consumer regulations. The areas of focus of anticipated studies, include, but are not limited to:

- Regulation E (Electronic Fund Transfers) initial disclosures, periodic statements, and notices regarding overdraft services and prepaid cards;
- Regulation P (Privacy of Consumer Financial Information) model privacy notices;
- Regulation V (Fair Credit Reporting) affiliate marketing opt-out and risk-based pricing notices;
- Regulation Z (Truth in Lending) potential new or revised disclosures for unsecured and home-secured credit such as residential home mortgage transactions and home equity lines of credit concerning the cost of credit, other terms of credit, the risks of credit, procedural and substantive rights of the consumer, etc.;
- Regulation Z disclosures regarding private student loans as mandated by the Higher Education Opportunity Act of 2008 (PL 110-315) ; and
- Electronic disclosures as substitutes for paper disclosures, in general.

Consumer-focused studies and surveys

The Federal Reserve has previously used this information collection to conduct a study focusing primarily on revising and improving credit card disclosures required by the Truth in Lending Act (TILA).³ The goal of this study was to gain a better understanding of what particular information consumers want or need to receive regarding their credit card accounts, and when the information would be most useful to the consumers. Another goal of the study was to learn whether consumers understand the information provided, and what language and format(s) would ensure that consumers read and understand the information, as well as act on it, if appropriate. This study was completed in the fall of 2008 and the results of the study were used in developing a final rule on credit card disclosures that was approved by the Board in December 2008.

If this information collection is renewed, the Federal Reserve anticipates conducting additional studies focusing on improving a number of other consumer disclosures, including those provided to consumers in residential mortgage transactions and for home equity lines of credit. The objective of these studies is to gain a better understanding of what information consumers need to receive early in the shopping process, when it should be provided, what form it should take, and how it can be integrated with later transaction-specific disclosures to facilitate consumer shopping and understanding of the mortgage contract. The Federal Reserve has already contracted with a research and consulting firm to conduct these mortgage-related studies, and testing is currently underway. The Federal Reserve may also utilize consumer testing to develop and revise consumer brochures, including the Consumer Handbook on Adjustable Rate Mortgages.

In addition, the Federal Reserve intends to use this information collection to test model disclosure forms that it is directed to promulgate for private student loans as required by the Higher Education Opportunity Act of 2008 (PL 110-315). These disclosures are given at several times during the lending process, including at application and following approval of a loan. The Federal Reserve has already begun testing of these mandated disclosures, which must be issued in final form by August 2009.

The Federal Reserve has also used this information collection to test model disclosure forms that would be provided to consumers informing them of their right to opt out of an institution's overdraft service. Consumer testing in the fall of 2008 led to a revised proposal in December 2008, and the Federal Reserve anticipates conducting additional testing on these notices during the second quarter of 2009.

Stakeholder-focused studies and surveys

³ Credit disclosures are given at the following times during the life of a credit account: (1) "Schumer box" disclosures (for credit cards only) provided in direct-mail solicitations and applications; (2) disclosures provided at account opening; (3) statement disclosures provided periodically (such as monthly); and (4) subsequent disclosures, such as convenience checks/balance transfer checks, and notices provided when key account terms are changed.

The Federal Reserve anticipates that it may also be necessary to conduct outreach with financial institutions to obtain information about current disclosure and business practices and the effectiveness of the Board's rules. For example, the Federal Reserve has previously surveyed a limited number of financial institutions about their overdraft fee practices and used this information in developing the recent Regulation DD rules requiring disclosure of aggregate overdraft fees to assist consumers to understand the cost of the service. In addition, the Federal Reserve has used this information collection to obtain mortgage materials from mortgage lenders and servicers to assist with its rulemaking efforts to revise and improve mortgage disclosures. The Federal Reserve may also use this collection to gather information from other interested stakeholders, including mortgage brokers, settlement agents, software vendors, processors, consumer groups (e.g., housing counselors), and consumer reporting agencies.

If necessary, the voluntary information collection may be used to conduct broader surveys of financial institutions to obtain additional data about their consumer product offerings and disclosure practices. This information may not currently be compiled by financial institutions, or, if compiled, may be proprietary. While the Federal Reserve to date has not used this information collection to conduct broad financial institution surveys, it would preserve the Federal Reserve's flexibility to do so in the future.

As is the case with consumer testing, the information collection would thus enable the Federal Reserve to avoid the inefficient process of having to use the public comment process to obtain data from financial institutions and other stakeholders about the effectiveness of consumer disclosures.

Time Schedule for Information Collection and Publication

For each study conducted under this information collection, the Federal Reserve would (1) determine the type of study to be conducted, (2) identify the characteristics of a test group or groups, (3) refine and test the survey questionnaire, if needed, and (4) initiate the sampling protocol.

The Federal Reserve generally does not publish the survey data that it obtains through consumer testing and surveys.⁴ Survey information is frequently cited, however, in published material such as in professional journals, in the Federal Reserve Bulletin, in the Federal Reserve's *Federal Register* notices for rulemakings that rely on consumer testing, and in testimony and reports to the Congress. If survey data is published, information that could possibly identify respondents would be excluded from the data.

Legal Status

⁴ However, the consultant reports on its testing related to consumer credit card and overdraft services disclosures have been made available on the Board's public web site in connection with those rulemakings.

The Board's Legal Division has determined that these studies are authorized pursuant to the:

- Home Mortgage Act, Section 806 (12 U.S.C. § 2804(a));
- Community Reinvestment Act, Section 806 (12 U.S.C. § 2905);
- Competitive Equality Banking Act, Section 1204 (12 U.S.C. § 3806) (adjustable rate mortgage caps);
- Expedited Funds Availability Act, Section 609 (12 U.S.C. § 4008);
- Truth in Saving Act, Section 269 (12 U.S.C. § 4308);
- Federal Trade Commission Act, Section 18(f) (15 U.S.C. § 57a(f));
- Truth in Lending Act, Section 105 (15 U.S.C. § 1604);
- Mortgage Disclosure Improvement Act, Sections 2501 through 2503 of the Housing and Economic Recovery Act of 2008 (15 U.S.C. 1638(b)(2)) (early disclosures for home refinance loans and home equity loans)
- Higher Education Opportunity Act of 2008, Section 1021(a) (15 U.S.C. § 1638(e)(5)) (private student loan disclosures)
- Fair Credit Reporting Act, Section 621 (15 U.S.C. § 1681s(e));
- Equal Credit Opportunity Act, Section 703 (15 U.S.C. § 1691b(a));
- Electronic Funds Transfer Act, Section 904 (15 U.S.C. § 1693b); and
- Gramm-Leach-Bliley Act, Section 504 (15 U.S.C. § 6804).

Respondent participation in the survey is voluntary. If the Federal Reserve Board contracts with an outside firm that retains the respondent identifying data and, pursuant to a contractual agreement, that data cannot be reported to the Federal Reserve Board, then the respondent identifying data cannot be considered an agency record and would not be subject to disclosure under the Freedom of Information Act (FOIA). However, if there is no contractual agreement between the Federal Reserve Board and an outside firm regarding the reporting of respondent identifying data, or if the Federal Reserve Board conducted the survey itself, the information could be considered an agency record subject to subsection (b)(6) of the FOIA. The confidentiality of the information obtained from financial institutions and other stakeholders will be determined on a case-by-case basis when the specific questions to be asked on each particular survey are formulated, but before respondents are contacted. Depending upon the survey questions, confidential treatment could be warranted under subsection (b)(4) of the FOIA. 5 U.S.C. § 552(b)(4) and (6).

Estimates of Respondent Burden

As shown in the following table, the total annual burden is estimated to be 20,884 hours. The Federal Reserve anticipates conducting up to four consumer qualitative and four consumer quantitative studies per year. Each consumer participant should be able to complete the qualitative and quantitative studies in two hours, and twenty minutes, respectively. The Federal Reserve also anticipates conducting up to 50 limited qualitative surveys and up to two broader quantitative surveys of financial institutions and other stakeholders per year. Each stakeholder survey would require an estimated 10 to 15 hours to complete. The actual number of studies

would be dependent upon issues of immediate concern, arising from Federal Reserve initiatives and working groups, economic developments, or requests from the Congress. The total proposed burden represents less than 1 percent of total Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<i>Consumer surveys</i>				
Qualitative testing	225	4	2	1,800
Quantitative testing	1,200	4	0.33	1,584
<i>Institution or Stakeholder surveys</i>				
Qualitative survey -- limited	20	50	10	10,000
Quantitative survey -- broad	250	2	15	7,500
<i>total</i>				20,884

Based on a rate of \$20 per hour for consumer participation, the proposed estimated cost to the consumers for the surveys is \$67,680. Based on the formula provided in footnote 7 the proposed estimated cost for industry participants is \$1,078,875. The total proposed cost to consumers and the industry is estimated to be \$1,146,555.⁵

Cost to the Federal Reserve System

The Federal Reserve would incur costs in terms of staff time for development and analysis, contractual services for a firm to implement the data collection portion of the study, and any payment or gift made to respondents for the sole purpose of increasing response rates. The total cost to the Federal Reserve System for this information collection over the three-year period is estimated to be approximately \$1.5 million, based on estimates of similar studies.

Consultation Outside the Agency and Discussion of Public Comments

In preparation for the credit card rulemaking under Regulation Z, the Federal Reserve spoke with three firms for insight on how to conduct the consumer testing aspects of the project. Similarly, the Federal Reserve met with multiple research firms in preparation of the mortgage disclosures rulemaking. If the Federal Reserve contracts with an outside firm for other projects,

⁵ Total cost to the public was estimated using the following formula. Percent of staff time, multiplied by annual burden hours, multiplied by hourly rate: 30% Administrative or Junior Analyst @ \$25, 45% Managerial or Technical @ \$55, 15% Senior Management @ \$100, and 10% Legal Counsel @ \$144. Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2007, <http://www.bls.gov/news.release/ocwage.nr0.htm> Occupations are defined using the BLS Occupational Classification System. <http://www.bls.gov/soc/> The average consumer cost of \$20 is estimated using data from the BLS Economic News Release (Table B-3. Average hourly and weekly earnings of production and nonsupervisory workers (1) on private nonfarm payrolls by industry sector and selected industry detail). <http://www.bls.gov/news.release/empsit.t16.htm>

the Federal Reserve may consult further with the firm in the development of the research instrument.

On March 30, 2009, the Federal Reserve published a notice in the *Federal Register* (74 FR 14126) requesting public comment for 60 days on the extension, without revision, of this information collection. The comment period for this notice expires on May 29, 2009.

Sensitive Questions

These studies contain no questions of a sensitive nature, as defined by OMB guidelines.