



**National Association
of Federal Credit Unions**
3138 10th Street North
Arlington, VA 22201-2149

NAFCU | Your Direct Connection to Education, Advocacy & Advancement

November 2, 2015

Ms. Linda Powell, Chief Data Officer
Consumer Financial Protection Bureau
Attention: PRA Office
1700 G Street NW.,
Washington, DC 20552

RE: Response to Notice and Request for Comment on “Web-Based Quantitative Testing of Point of Sale/ ATM (POS/ATM) Overdraft Disclosure Forms”

Dear Ms. Powell:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation’s federally insured credit unions, I am writing to you regarding the Consumer Financial Protection Bureau’s (“CFPB” or “the Bureau”) request for approval under the *Paperwork Reduction Act* (PRA) to conduct a national web-based survey of 8,000 individuals. *See* 80 FR 53503 (Sept. 4, 2015). The Bureau indicates that this survey is a part of the Bureau’s ongoing study of overdraft protection services. While NAFCU and our members appreciate the CFPB’s effort to understand consumer activity in this market prior to engaging in any rulemaking, we are concerned that this PRA notice failed to include the actual survey questions for public comment. NAFCU firmly believes the validity and usefulness of the survey data hinges on the form and substance of the questions. Therefore, NAFCU urges the CFPB to publish its consumer survey for public comment prior to beginning this data collection effort.

Credit Unions Provide Fair and Transparent Overdraft Programs

As member-owned institutions, credit unions have a vested interest in informing and educating their member-owners on the terms and conditions of the financial products and services that are offered. Credit unions have a strong track record of working closely with their members to resolve any disputes or concerns, particularly regarding overdraft fees. NAFCU’s June 2015 *Economic & CU Monitor* survey found that every respondent offered an alternative to overdraft or courtesy pay programs, with overdraft lines of credit and linked savings accounts being the most popular (84.4%). Additionally, nearly every respondent (97%) will reverse an overdraft charge on a case-by-case basis.

Based on NAFCU's data, the average credit union respondent has had their overdraft protection program in place for a decade and received only two member complaints related to overdraft in 2014. NAFCU member credit unions are doing their part to make sure their members are knowledgeable and informed consumers with regard to overdraft protection. Over two-thirds of respondents (68.8 %) contact members who repeatedly incur overdrafts. Over 81.8 % of NAFCU respondents stated that they offer financial literacy training to their members that focused on overdraft avoidance.

Accordingly, NAFCU and our members strongly urge the CFPB to craft its consumer survey instrument in a way that allows consumers to provide feedback on how they interact with their financial institution before and after incurring an overdraft fee. The CFPB must be careful to allow the consumer data to be objective and neutral, while avoiding the easy pitfall of tailoring questions toward preconceived notions about consumer attitudes and understanding of overdraft products in the market.

Survey Content for Public Comment

NAFCU appreciates the CFPB's consideration of consumers' use and understanding of overdraft services prior to proposing any regulations in the market. Any premature regulation in the market could disrupt consumer access to important and transparent financial services. NAFCU and our members are concerned that the Bureau did not include in its submission to the Office of Management and Budget (OMB) a draft survey instrument on which the public could comment.

As NAFCU communicated to the Bureau in our letter on September 30, 2015, we remain disappointed that the CFPB declined to include a draft survey instrument in its submission to the Office of Management and Budget (OMB). Failure to include this instrument denies credit unions the opportunity to provide comments on questions being asked about credit union programs. As member-owned cooperatives, credit unions design their overdraft programs to best meet the needs of their members within the regulatory requirements. Without seeing the survey instrument first, NAFCU and our members are concerned that credit unions will be unable to conclude if the Bureau has considered the unique programs that credit unions tailor for their individual memberships. Further, without seeing the questions, NAFCU and our members are unable to offer suggestions about how the Bureau can account for a credit union's unique structure in its survey. Therefore, NAFCU strongly urges the Bureau to re-submit its information collection request with the draft survey instrument to be in compliance with the OMB guidance.

NAFCU firmly believes the public must see the form and substance of the survey questions prior to circulation in order to ensure that they are neither biased nor misleading. Because the data to be collected from the proposed consumer survey will likely affect any proposed regulations the bureau may issue regarding overdraft disclosure, NAFCU believes it is vital that the public be given an opportunity to comment on the form and substance of the survey.

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Conclusion

As the Bureau continues its study of consumer education and choice with regard to overdraft protection services, NAFCU and our members hope to be a resource for CFPB staff to share our insights and experiences of working closely with credit union members to provide needed overdraft services. Should you have any questions or concerns, or if you would like to discuss this issue further, please feel free to contact me at ksubramanian@nafcu.org or (703) 842-2212.

Sincerely,



Kavitha Subramanian
Regulatory Affairs Counsel