

COMMITTEE ON FINANCIAL SERVICES
Subcommittee on Financial Institutions and Consumer Credit
Examining the Consumer Financial Protection Bureau's
Collection and Use of Consumer Data
July 9, 2013

QUESTIONS FROM CHAIRMAN SHELLEY MOORE CAPITO
AND VICE CHAIRMAN SEAN DUFFY

CAPITO/DUFFY 1.

How many U.S. consumer accounts is the CFPB monitoring as part of its data collection activities?

Response

The Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. Instead, in the normal course of carrying out its statutory mandate to protect consumers, ensure regulatory compliance, and monitor the financial services and products markets for risks to consumers, the Bureau collects information about accounts from consumers who seek the Bureau's help through the consumer response function and from the institution involved in the complaint. The Bureau also collects information from covered persons who are the subject of supervisory examinations or enforcement activity, as well as from whistleblowers and third parties who may have information relevant to an enforcement action.

In addition, the Bureau performs market monitoring activities, which involve the analysis of market trends and risks to consumers based upon aggregating and analyzing account information stripped of direct or personal identifiers. Specifically, the Bureau's market monitoring activities include:

The Bureau has procured from a national credit reporting agency (CRA) credit information, stripped of direct or personal identifiers, with respect to a random and representative sample of consumers with a credit report. For the records comprising this Consumer Credit Panel (CCP), the Bureau receives the information in the CRA's database with respect to all accounts associated with the record. The CCP records cover approximately a 4% sample of credit reporting agency records. The CCP is similar to panels that the Federal Reserve Board of Governors and the Federal Reserve Bank of New York each have maintained for several years.

The Bureau is partnering with the Federal Housing Finance Agency (FHFA) to construct the National Mortgage Database (NMDB). For this database, the FHFA and Bureau have procured from a CRA credit information with respect to a random and representative sample of 5% of mortgages held by consumers. This credit information, like the data in the CCP, does not include direct or personal identifiers for individual consumers. The Bureau receives the information in the CRA's database with respect to all accounts associated with the record. The Bureau cannot directly link data in the CCP with data in the NMDB and thus does not know whether any of the records are common to the two databases. The Bureau also procures

commercially-available mortgage data from CoreLogic and BlackBox Logic that, like the CCP and NMDB, does not contain personal identifying information directly linked to individual consumers.

In the exercise of its supervisory authority the Bureau is obtaining data stripped of direct or personal identifiers with respect to all credit card accounts maintained by a number of large card issuers. This data is collected and housed on behalf of the Bureau by Argus Information and Advisory Services, a company that is in the business of obtaining account-level data for credit cards and other financial services from financial services companies. The data being provided to the Bureau are the same type of data that credit card issuers regularly provide to Argus, such as the monthly balance, fees charges, interest charged, and payments received on accounts. The data the Bureau receives does not include transactions, such as purchases. Through a Memorandum of Understanding, the Bureau is also able to access data that is collected by a partner prudential regulator from an additional set of credit card issuers. The combined data represent approximately 85-90% of the outstanding card balances. None of the foregoing credit card data contain information that directly identifies individuals.

CAPITO/DUFFY 2.

How many American citizens hold these accounts?

Response

As discussed in the response to question 1, the Consumer Financial Protection Bureau (Bureau) does not monitor the accounts of particular consumers and does not track the financial habits or activities of any individual consumer. Instead, in the normal course of carrying out its statutory mandate to protect consumers, ensure regulatory compliance, and monitor the financial services and products markets for risks to consumers, the Bureau collects information about accounts from consumers who seek the Bureau's help through the consumer response function and from covered persons who are the subject of supervisory examinations or enforcement activity, as well as from whistleblowers and third parties who may have information relevant to an enforcement action. Additionally, the Bureau performs market monitoring activities that involve analysis of account information stripped of direct or personal identifiers. These activities are described in response to question 1. Without direct or personal identifiers, the Bureau cannot link these records to individual consumers. As a result, the Bureau cannot determine the number of citizens with respect to which data is being collected.

CAPITO/DUFFY 3.

How many data fields are the CFPB collecting per account?

Response

There is no single system of consolidated data maintained by the Consumer Financial Protection Bureau (Bureau). The data fields contained in any particular database utilized by the Bureau vary depending on the purpose for which the data within it is gathered. As noted in response to question 1, the Consumer Credit Panel contains fields collected by the credit reporting agency from which this data is being purchased, excluding fields that contain information identifying individual consumers (e.g., name, address, or social security number) or individual creditors. The National Mortgage Database (NMDB) will contain those fields, plus additional fields that are obtained by matching the records in the NMDB with other mortgage-related data, such as

data reported pursuant to the Home Mortgage and Disclosure Act. With respect to the credit card database, the fields are listed in the Request for Proposals that the Bureau issued and which can be accessed at

<https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=61f9e255acb3ac044ffeb4ae10c6ec00>.

In addition to these databases, the Office of Enforcement has received evidence and information from consumers, financial service providers, third-party entities, and other government agencies. This data is generally provided in unstructured form without searchable data fields. The Bureau is also authorized to gather information from institutions it supervises in order to assess compliance with the requirements of Federal consumer financial law, obtain information about the institutions' activities and compliance systems or procedures, and detect and assess risk to consumers and to consumer financial markets. The type, amount, and format of information requested varies depending on which regulatory requirements are under review.

CAPITO/DUFFY 4.

What types of information do these fields include?

Response

Please see the response to question 1.

CAPITO/DUFFY 5.

How many data fields does the CFPB's contract with Argus Information and Advisory Services specify should be collected and retained?

Response

Please see the response to question 3.

CAPITO/DUFFY 6.

Will you provide this Committee with each of the complete contracts that the CFPB has entered into with private entities for purposes of data collection, analysis, and storage? If so, please provide these contracts along with your responses to these questions. If not, please explain why the CFPB will not do so.

Response

Attached are contract copies (and modifications). Contracts are limited to those that involve the purchase, collection, analysis, and storage of relevant data.

- Argus Information and Advisory Services LLC (5 attachments)
- Blackbox Logic LLC (7 attachments)
- Brattle Group Inc. (5 attachments)
- Clarity Services Inc. (4 attachments)
- CLC Compliance Technologies Inc. (6 attachments)
- CoreLogic Information Solutions Inc. (4 attachments)
- Deloitte Consulting LLP (1 attachment for contract number CFP-12-D-00006)
- Deloitte Consulting LLP (5 attachments for contract number TPD-CFP-12-C-0008)

- Experian (4 attachments)
- Fors Marsh Group LLC (7 attachments)
- PriceWaterhouseCoopers LLP (2 attachments)

Please be aware that the documents provided are contractual documents that may contain trade secrets and/or proprietary or confidential information of private entities. The companies should be consulted before any of this information is released publicly to avoid possible competitive harm to these private parties.

CAPITO/DUFFY 7.

How many memoranda of understanding (MOUs) has the CFPB signed with federal, state, and local governmental entities regarding the collection and sharing of data?

Response

The Consumer Financial Protection Bureau (Bureau) Office of Consumer Response has agreements to share consumer complaint data with 25 state and federal agencies.

In addition, the Bureau has signed MOUs with the Conference of State Bank Supervisors and other signatories from all 50 states plus Puerto Rico and the District of Columbia designed to preserve the confidentiality of any supervisory information shared between the parties or related to the operation of the Nationwide Mortgage Licensing System and the Mortgage Call Report.

The Bureau has also signed approximately 40 other MOUs with federal, state, and local governmental entities regarding the potential sharing of data and/or the treatment of shared data.

CAPITO/DUFFY 8.

Has the CFPB signed MOUs with any federal financial prudential regulators? Which ones?

Response

The Consumer Financial Protection Bureau has signed MOUs with each federal financial prudential regulator, including the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

CAPITO/DUFFY 9.

How many MOUs has the CFPB signed with foreign governmental entities?

Response

The Consumer Financial Protection Bureau does not have MOUs with any foreign governmental entities.

CAPITO/DUFFY 10.

How many MOUs has the CFPB signed with foreign non-governmental entities?

Response

The Bureau does not have MOUs with any foreign non-governmental entities.

CAPITO/DUFFY 11.

Will you provide this Committee with copies of any and all such MOUs that the CFPB has entered into with any entity regarding the collection and sharing of data? If so, please provide these MOUs along with your responses to these questions. If not, please explain why the CFPB will not do so.

Response

The Consumer Financial Protection Bureau (Bureau) will provide the Committee with copies of MOUs that the Bureau has entered into with other governmental entities regarding the collection and/or sharing of data, with the exception of MOUs that contain nonpublic information, such as confidential supervisory information or other sensitive information of other governmental entities.

CD ATTACHMENT.

CAPITO/DUFFY 12.

Has the CFPB issued orders to any company requesting data or other information that has been used by the agency in any way to inform or augment its market monitoring efforts? If so, has it made these orders available to the public?

Response

The Consumer Financial Protection Bureau (Bureau) recently issued a number of similar orders pursuant to its authority under section 1022(c)(4)(B)(ii) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) seeking standard form consumer credit agreements from a number of covered persons. The information the Bureau will collect is intended to assist the Bureau as it works to complete the study mandated by section 1028(a) of the Dodd-Frank Act. These orders have not been published by the Bureau.

CAPITO/DUFFY 13.

If the CFPB has requested data or other information from companies for its market monitoring efforts, but such requests have constituted an order, in what form have these requests been made?

Response

The Consumer Financial Protection Bureau's (Bureau) recent orders seeking standard form consumer credit agreements were in the form of short orders setting forth the purpose of the request, the authority for the request, instructions for complying with the request, and contact information to permit recipients to follow-up with the Bureau with any questions.

CAPITO/DUFFY 14.

From which private companies and governmental agencies has the CFPB requested data? What is the scope of those data requests and how frequently do the entities provide the CFPB with the requested data? Please provide a complete answer for each such company and agency.

Response

The Consumer Financial Protection Bureau (Bureau) has purchased commercially available data from Experian that is updated quarterly; data from CoreLogic and BlackBox Logic that is updated monthly, and data, as a one-time purchase, from Clarity. None of these data contain direct or personal identifiers.

As noted in responses to questions 7 and 8, the Bureau has also requested data from other agencies with which it has MOUs. For example, the Bureau received data from the Federal Housing Finance Agency regarding mortgage loans to aid in the Bureau's development of its recent mortgage rules. In each instance, the data requested and received did not contain direct or personal identifiers.

In the course of its supervisory activities and enforcement activities, the Bureau has requested data from companies that are either subject to its supervision or subject to its enforcement jurisdiction. While most of these have been one-time requests, some may recur annually. The Bureau has also sought, one time, standard form consumer credit agreements pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act 1022(c)(4)(B)(ii). Because the supervisory and investigatory processes depend upon confidentiality, the Bureau does not disclose the names of the companies to which it makes supervisory or investigatory requests.

Some companies have voluntarily submitted data to the Bureau under a pledge of confidentiality. The Bureau's ability to obtain data voluntarily would be severely compromised if the Bureau were to breach its confidentiality pledge and reveal the identity of those companies. These have been one-time submissions. In each instance, the data requested and received did not contain direct or personal identifiers.

CAPITO/DUFFY 15.

News reports indicate that the CFPB is collecting consumer financial data on credit cards, credit card add-on products, overdraft fees, payday loans, and mortgages. Are these reports accurate? Are there any other areas in which the CFPB is collecting consumer financial data?

Response

The response to question 1 identifies instances in which the Consumer Financial Protection Bureau (Bureau) is obtaining data on an ongoing basis.

In each supervisory examination that the Bureau conducts, it obtains financial data relevant to that exam. For what product the Bureau obtains information would depend on the scope of a particular examination.

In the course of preparing reports to Congress as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau has obtained information on a voluntary basis from a number of student lenders, a credit reporting agency, and a remittance transfer provider. In each case, the data did not contain any direct or personal identifiers.

In the course of investigating potential violations of Federal consumer financial laws, the Office of Enforcement obtains information relating to consumers in various segments of the financial services industry and uses that information to enforce compliance with the law and to obtain restitution and other forms of relief for consumers. For example, the Bureau has obtained consent orders requiring restitution be provided to servicemembers who were misled when taking out loans. The Bureau has also obtained court-ordered restitution for victims of foreclosure relief scams in two separate federal court judgments.

The Bureau's response to consumer complaints also may involve collection of consumer financial information needed to process complaints accurately. The information the Bureau collects to process any consumer complaint would depend upon the nature of the problems experienced by the individual consumer.

CAPITO/DUFFY 16.

News reports indicate that the CFPB is assigning an identifier to each individual and requiring that all data providers use this identifier for each individual when submitting their data. Is this true? Please explain fully how the CFPB is using personal identifiers in its data collection activities.

Response

The Consumer Financial Protection Bureau (Bureau) does not assign an identifier and does not require all data providers to use this identifier. The Bureau has published System of Records Notices (SORNs) for any data for which personally identifiable information is retrieved by direct or personal identifiers. With respect to the SORN for Market and Consumer Research Records, the Bureau proactively published a notice that described a range of potential data collections and uses, however none of the data collected by the Bureau to date for market monitoring purposes have in fact contained direct or personal identifiers. The Bureau's SORNs are available at <http://www.consumerfinance.gov/privacy-office>.

CAPITO/DUFFY 17.

Why does the CFPB need to track the financial habits of an individual consumer?

Response

The Consumer Financial Protection Bureau (Bureau) does not track the financial habits of any individual consumer.

In carrying out its congressionally mandated supervisory, enforcement, and regulatory functions, the Bureau relies on rigorous empirical analysis – grounded in data – to evaluate how the markets for consumer financial products and services actually work. Data analysis is also fundamental to fulfilling our mandate to protect consumers. Analysis of data, as the law creating the Bureau contemplated, enables the Bureau not only to better protect and educate consumers,

but also to coordinate with other regulators and craft tailored rules based on careful examination of costs and benefits. The Bureau's evaluation of this data also allows it to provide meaningful reports, as required by Congress, and to perform its consumer response function.

CAPITO/DUFFY 18.

Does the CFPB monitor any financial transactions at the individual level?

Response

The Consumer Financial Protection Bureau does not monitor any individual's financial transactions.

CAPITO/DUFFY 19.

Are any of the CFPB's databases or IT systems capable of monitoring financial transactions at the individual level? Can any CFPB database retrieve financial information by individual identifier?

Response

The Consumer Financial Protection Bureau (Bureau) does not monitor individuals' financial transactions. Please see responses to questions 1 and 3 for explanation of the types of information the Bureau collects and the purposes for that collection, including supervisory and investigatory information and information obtained from financial institutions in the resolution of consumer complaints, some of which contains personally identifiable financial information. The Bureau has published System of Records Notices (SORNs) for any data for which personally identifiable information is retrieved by direct or personal identifiers. With respect to the SORN for Market and Consumer Research Records, the Bureau proactively published a notice that described a range of potential data collections and uses, however none of the data collected by the Bureau to date for market monitoring purposes have in fact contained direct or personal identifiers. The Bureau's SORNs are available at <http://www.consumerfinance.gov/privacy-office>.

CAPITO/DUFFY 20.

How does the CFPB track or match its records with multiple datasets?

Response

There are limited cases where the Consumer Financial Protection Bureau (Bureau) matches records with multiple datasets. The Bureau may obtain updates or supplements to a dataset and, in those circumstances, may use record locators unique to the entity providing the update in order to update or supplement the individual records. For example, with respect to the Consumer Credit Panel and the National Mortgage Database, the credit reporting agency that supplies that data provides a unique record locator with respect to each record that enables the providers to update the database on a quarterly basis. With respect to the credit card database, each individual issuer that supplies data includes a unique record locator with respect to each account that enables the provider to update the database on a monthly basis. These record locators do not enable the Bureau to link these records to the identity of individual consumers or to records supplied to the Bureau by other entities.

With respect to the credit card database, issuers provide data, on a quarterly basis, directly to a national credit reporting agency (CRA) and provide to that CRA an identifier which enables the CRA to append to the record data maintained by the CRA. However, in this case, the Bureau does not do the match, the identifier is not transmitted to the Bureau, and the Bureau does not identify the account holder for any account in the database.

In some other instances, the Bureau may match records based on fields such as geography and without the use of direct or personal identifiers. This was done for example when developing the data needed to inform the Title XIV rulemakings.

CAPITO/DUFFY 21.

How does the CFPB define “personally identifiable financial information?”

Response

Pursuant to the Gramm-Leach-Bliley Act, the Consumer Financial Protection Bureau (Bureau) defines “personally identifiable financial information” by regulation as follows:

- (q)(1) *Personally identifiable financial information* means any information:
 - (i) A consumer provides to you to obtain a financial product or service from you;
 - (ii) About a consumer resulting from any transaction involving a financial product or service between you and a consumer; or
 - (iii) You otherwise obtain about a consumer in connection with providing a financial product or service to that consumer.

* * *

(2) *Information not included.* Personally identifiable financial information does not include:

- (B) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

The remainder of the definition provides examples. The complete definition can be found at 12 C.F.R. §1016.3(q), along with interrelated terms.

CAPITO/DUFFY 22.

Will the CFPB commit to writing a rule to define the phrase “personally identifiable financial information?”

Response

Please see response to question 21. The Consumer Financial Protection Bureau (Bureau) issued an interim final rule defining the phrase “personally identifiable financial information,” pursuant to the Gramm-Leach-Bliley Act privacy provisions, consistent with the definitions of that term that other agencies had used in prior rules. *See* 76 Fed. Reg. 79025, 79032 (December 21, 2011) (promulgating 12 C.F.R. §1016.3(q)). That Bureau definition has been in effect since December 30, 2011.

CAPITO/DUFFY 23.

If not, will the CFPB commit to seeking public input and comment about the meaning of this undefined term?

Response

Please see responses to questions 21 and 22. When the Consumer Financial Protection Bureau (Bureau) published its interim final rule defining the phrase “personally identifiable financial information” pursuant to the Gramm-Leach-Bliley Act, it solicited comment. The comment period ended February 21, 2012. The Bureau intends to issue a final rule by the end of 2013.

CAPITO/DUFFY 24.

What kind of personal information constitutes “personally identifiable financial information”? Does a person’s name? Does a personal identification number such as an SSN? Does address information? How about a ZIP+4? Telephone numbers? Personal characteristics such as pictures or fingerprints? Information identifying personally owned property? Employment information? Medical information? Credit score?

Response

Please see responses to questions 21 and 22. The Consumer Financial Protection Bureau’s definition of “personally identifiable financial information” pursuant to the Gramm-Leach-Bliley Act provides examples of information that is and is not included in the definition. The relevant portion of the rule reads as follows:

(2) *Examples.* (i) *Information included.* Personally identifiable financial information includes:

(A) Information a consumer provides to you on an application to obtain a loan, a credit card, a credit union membership, or other financial product or service;

(B) Account balance information, payment history, overdraft history, and credit or debit card purchase information;

(C) The fact that an individual is or has been one of your customers or has obtained a financial product or service from you;

(D) Any information about your consumer if it is disclosed in a manner that indicates that the individual is or has been your consumer;

(E) Any information that a consumer provides to you or that you or your agent otherwise obtain in connection with collecting on, or servicing, a loan or a credit account;

(F) Any information you collect through an internet “cookie” (an information collecting device from a Web server); and

(G) Information from a consumer report.

(ii) *Information not included.* Personally identifiable financial information does not include:

(A) A list of names and addresses of customers of an entity that is not a financial institution; and

(B) Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

CAPITO/DUFFY 25.

What kind of financial information constitutes “personally identifiable financial information”? Is any of this information linked or linkable to other information in the CFPB’s database?

Response

Please see responses to questions 21 and 24. There is no single system of consolidated data maintained by the Consumer Financial Protection Bureau.

CAPITO/DUFFY 26.

Does the CFPB collect any type of “personally identifiable financial information” about any U.S. citizen? If so, what types of information does it collect? In what circumstances? For what purposes?

Response

Please see responses to questions 1 and 3 for explanation of the types and purposes of information the Consumer Financial Protection Bureau (Bureau) collects, including supervisory and investigatory information and information obtained from financial institutions and consumers in the resolution of consumer complaints, some of which contains personally identifiable financial information.

CAPITO/DUFFY 27.

Do any CFPB contracts or MOUs with any outside entity provide for the collection of personally identifiable information? If so, which ones? Please identify any such contract and MOU.

Response

The Consumer Financial Protection Bureau (Bureau) has MOUs that relate to the sharing of information or the treatment of shared information with federal and state agencies, as discussed in response to question 7.

The Bureau has contracts to accomplish numerous aspects of its statutory mandate to protect consumers. Some of the work done under these contracts involves, as a component of carrying out our work, the collection of personally identifiable information (PII). Those contracts include the following:

- Contact Center Services/Consumer Response System Support – Vendor may obtain information about a particular consumer to help process a consumer’s complaint.
- Compliance Analysis Tool, Analytical Services, Support & Training – Vendor receives loan portfolio data to support the Bureau’s supervisory function.

- Nationwide Mortgage Licensing System and Registry Services – Vendor is tasked with ongoing operation, maintenance, technical support, and end user support services which involves PII collection.
- Forms Disclosure Testing & Support Services – Vendor collects PII from consumer testing participants. The Bureau does not request nor obtain any of the PII.
- Redress and Civil Penalty Fund 3rd Party Administrator – Vendors may receive and/or collect information about harmed individuals/consumers for the purpose of distributing redress funds to these consumers in case-specific matters.
- Human Resources Support Services – Vendors may be tasked with recruitment support which would entail collecting PII of potential job candidates. Vendors may also collect or have access to the PII of Bureau employees for workforce planning, data analysis, and other related support services.
- Administration of Benefit Programs – Vendors may collect or handle the PII of Bureau employees for purposes of administering benefits, such as flexible spending accounts, dental insurance, vision insurance, and long and short term disability.
- Interpreting Services – Vendor provides interpreting services to Bureau employees and applicants who request ASL for reasonable accommodation. Vendor receives names of those requesting assistance and their physical locations for the event.
- Equal Employment Opportunity Counseling, Mediation, and Investigation Services – Vendors may collect PII through interviews or data collection for use in preparing counseling or investigation reports.
- Consumer Experience Design Services – Vendor collects PII for the screening of individuals to be interviewed. This research data is used solely by the vendor. The Bureau does not receive this information.
- Training Services – Vendor collects trainee information.
- Subscription Services – Vendor collects user information for purposes of establishing accounts/licenses.

CAPITO/DUFFY 28.

What is the CFPB's statutory authority for demanding personally identifiable financial information from companies? On which specific provision of the Dodd-Frank Act does the CFPB rely?

Response

A number of provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act, among them 12 U.S.C. § 5512(c), 12 U.S.C. § 5514(b), 12 U.S.C. § 5515(b), 12 U.S.C. § 5534, and 12 U.S.C. § 5562, authorize the Consumer Financial Protection Bureau (Bureau) to request

information. The Bureau's information-gathering is consistent with these authorities and with limitations regarding personally identifiable financial information.

CAPITO/DUFFY 29.

If the CFPB requires that companies provide personally identifiable financial information as part of its monitoring activities, doesn't the Dodd-Frank Act require it to prescribe the form of its requests by rule or order? Why has the CFPB not issued a rule governing the form of its data requests?

Response

Section 1022(c)(4)(B)(ii) of the Dodd-Frank Wall Street and Consumer Protection Act (Dodd-Frank Act) gives the Consumer Financial Protection Bureau (Bureau) authority to require covered persons and service providers to submit reports and written answers regarding their participation in the markets for consumer financial products and services. As noted above, the Bureau has recently issued orders seeking standard form consumer credit agreements from covered persons pursuant to its authority under 1022(c)(4)(B)(ii) of the Dodd-Frank Act. The information sought by the Bureau does not include personally identifiable financial information.

CAPITO/DUFFY 30.

Does the CFPB's failure to issue a rule expose financial institutions to legal liability under the Gramm-Leach-Bliley Act for unlawfully disclosing non-public information?

Response

As explained above in response to question 1, the information that the Consumer Financial Protection Bureau (Bureau) receives directly from credit reporting agencies and other commercially available sources excludes direct or personal identifiers. The Gramm-Leach-Bliley Act and its implementing regulation, Regulation P, define "personally identifiable financial information" to exclude "information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers, such as account numbers, names, or addresses." 12 C.F.R. § 1016.3(q)(2)(ii)(B).

Where the Bureau receives personally identifiable financial information pursuant to its supervisory or enforcement activities or to resolve consumer complaints, these disclosures are exempt under the Gramm-Leach-Bliley Act and Regulation P. The Gramm-Leach-Bliley Act and Regulation P do not restrict financial institutions from disclosing personally identifiable financial information about consumers to "government regulatory authorities having jurisdiction for examination, compliance, or other purposes as authorized by law." 15 U.S.C. 6802(e)(8) and 12 C.F.R. § 1016.15(a)(7)(iii).

CAPITO/DUFFY 31.

May a financial institution refuse to provide the CFPB with information on this ground or any other legal ground? Under what circumstances may a financial institution refuse to provide requested information to the CFPB? Would refusing to do so violate the CFPB's recently-released bulletin regarding "responsible business conduct" for supervised entities? What action would the CFPB take in such a case?

Response

As explained in response to question 30, restrictions in the Gramm-Leach Bliley Act and its implementing regulations would not be an appropriate reason for declining to provide information to the Consumer Financial Protection Bureau (Bureau) as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The Bureau's bulletin regarding responsible conduct describes various forms of conduct that the Bureau will view favorably in assessing a company's violation of law. Like many other law enforcement agencies, the Bureau believes it is appropriate to take account of the steps a company had taken to avoid violating the law and how, once a violation nonetheless occurred, the company responded to it.

CAPITO/DUFFY 32.

Isn't it true that the Dodd-Frank Act prohibits the CFPB from collecting "any personally identifiable information about a consumer from the financial records of the covered person or service provider," except when consumers give their permission? If not, on what legal authority does the CFPB rely for the collection of this information?

Response

The question refers to Section 1022(c)(9) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. That provision also allows for the collection of covered information as permitted or required under other legal provisions, consistent with the Right to Financial Privacy Act. The Right to Financial Privacy Act, as amended when Congress established the Consumer Financial Protection Bureau (Bureau), specifically exempts from its restrictions the disclosure of information to the Bureau in the course of supervision.

CAPITO/DUFFY 33.

Is the CFPB subject to the Privacy Act of 1978?

Response

The Consumer Financial Protection Bureau is subject to and complies with the Privacy Act of 1974.

CAPITO/DUFFY 34.

The CFPB issued a Statement of Records Notice (SORN) on November 12, 2012, entitled "CFPB.022 – Market and Consumer Research Records." According to the SORN, the purpose of the database is "to enable CFPB to monitor, research, analyze, and report information relevant to the functioning of markets for consumer financial products and services." Is this the database the CFPB is using for its data collection and market monitoring efforts?

Response

The Consumer Financial Protection Bureau (Bureau) does not maintain a single database of consolidated information. The Bureau published the System of Records Notice (SORN) for Market and Consumer Research Records (CFPB.022) on November 14, 2012. The SORN set out the types of records that could be collected and the potential uses that could be made of those

records. The Bureau believes that in publishing SORNs for public comment it is appropriate to identify the range of potential data to be collected and potential uses.

The SORN covers records which are retrieved by direct or personal identifiers. As explained in response to question number 1, the data that the Bureau has secured does not contain, and is not retrieved by, direct or personal identifiers. Therefore, these data fall outside the scope of the SORN and no activities have taken place with respect to the SORN.

CAPITO/DUFFY 35.

Why does the CFPB need to use personal identifiers for monitoring and analyzing markets? Why not just select random samples of datasets?

Response

The Consumer Financial Protection Bureau (Bureau) does not collect direct or personal identifiers of consumers for the purposes of monitoring and analyzing markets.

As explained in response to question 1, the Bureau's Consumer Credit Panel and National Mortgage Database contain a random sample of records drawn from a credit reporting agency, none of which contain direct or personal identifiers. For the credit card database, credit card issuers provide a full file of accounts to the Bureau's contractor, stripped of direct or personal identifiers, rather than a random sample because this is the same format in which they provide data to the same contractor for benchmarking services that they purchase from the contractor pursuant to private agreements. This reduces costs and burden for the issuers supplying the data as it avoids the need to draw a random sample, to provide data with respect to those accounts on an ongoing basis, and to add to the sample each time the data is provided to assure that the sample remains representative of all accounts, including newly-originated accounts.

CAPITO/DUFFY 36.

Is the CFPB using, or does it intend to use, its database to conduct longitudinal studies about consumer behavior?

Response

The Consumer Financial Protection Bureau (Bureau) does not maintain a single database of consolidated information. The Consumer Credit Panel and National Mortgage Database described in response to question 1, in order to capture the period before the financial crisis, contain 10 years of history. The credit card database contains over 5 years of history. The Bureau intends to update these records on a regular basis. These databases may be used to understand trends in the market, including consumers' behavior in the aggregate, but are not used to understand any specific individual's behavior.

CAPITO/DUFFY 37.

Is the CFPB subject to the E-Government Act of 2002?

Response

The Consumer Financial Protection Bureau (Bureau) is subject to Section 208 of the E-Government Act of 2002, including its requirements related to privacy impact assessments.

Although the Bureau is not legally obligated to follow OMB-issued guidance, including the guidance promulgated pursuant to Section 208(b), it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

CAPITO/DUFFY 38.

Why hasn't the CFPB issued a "Privacy Impact Assessment," or PIA, for its "Market and Consumer Research Records" database?

Response

There is no single "Market and Consumer Research Records" database. The Consumer Financial Protection Bureau (Bureau) published a System of Records Notice (SORN) for Market and Consumer Research Records on November 14, 2012, for public comment. The SORN set out the purposes for which certain information could be collected and the potential uses and disclosures that could be made of those records. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau safeguards privacy by conducting and publishing Privacy Impact Assessments (PIAs) whenever we introduce new technologies or modify existing technologies that contain or work with personally identifiable information, pursuant to the definition established by the Office of Management and Budget in OMB Memorandum 07-16 (M 07-16) "Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007." The Bureau has not published a PIA for any market and consumer research records because no such change has been introduced.

CAPITO/DUFFY 39.

Who is responsible for conducting and approving a PIA at the CFPB? Who is the CFPB's Chief Privacy Officer?

Response

In accordance with the Consumer Financial Protection Bureau's (Bureau) regulation on "CFPB Disclosure of Records and Information," the Chief Information Officer (CIO) is responsible for ensuring compliance with federal privacy requirements. 12 C.F.R. part 1070 (2013). The CIO has delegated this authority to the Chief Privacy Officer, Claire Stapleton.

CAPITO/DUFFY 40.

Will the CFPB commit to conducting and publicly releasing a PIA for its "Market and Consumer Research Records" database? If so, by what date? If not, why not?

Response

Please see response to question 38.

CAPITO/DUFFY 41.

Has the CFPB calculated the total cost, to date, of its data collection efforts, including, but not limited to, costs incurred in the acquisition, storage, protection and analysis of data?

Response

The cost to date of the Consumer Financial Protection Bureau's (Bureau) contracts to obtain data is: FY 2013 - \$6,061,900; FY 2012 - \$7,129,460. Both fiscal years include contracts with commercial and government vendors.

We are unable to break out the costs of storing and protecting this specific data. Our managed service contract for our technology environment includes costs for hardware, software, labor, facilities, and computing power. These costs are shared across a number of Bureau technology needs, making it very difficult to ascertain the costs for discrete components, e.g. specific data, within that environment.

CAPITO/DUFFY 42.

Has the CFPB ascertained the costs incurred by supervised institutions in complying with its data requests? Has it asked these institutions for an accounting of the costs each incurs? If so, what are the costs?

Response

The Consumer Financial Protection Bureau (Bureau), like the federal prudential regulators, must obtain certain information from the institutions it supervises. The Bureau conducts examinations and requires reports to carry out its functions under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act to: (i) assess compliance with the requirements of Federal consumer financial law, (ii) obtain information about the activities and compliance systems or procedures of these persons, and (iii) detect and assess risks to consumers and to markets for consumer financial products and services. 12 U.S.C. §§ 5514(b)(1) and 5515(b)(1). The Bureau recognizes the importance of minimizing burdens on the institutions it supervises. For that reason the Bureau has, for example, worked with institutions that have informed it that particular information requests would be difficult and/or expensive to fulfill and modified requests accordingly.

CAPITO/DUFFY 43.

Has the CFPB solicited feedback from any institutions about the cost of these data requests and production? Have any financial institutions volunteered or shared feedback with the CFPB that information? If so, which ones?

Response

Throughout the supervisory process, the Consumer Financial Protection Bureau (Bureau) maintains an open dialogue with the institutions it supervises. The Bureau regularly receives input on a variety of matters, and, as noted in response to question 42, has received input on the difficulty and/or expense of fulfilling an information request. In certain instances, the Bureau has been able to modify its information requests to reduce the burden on the supervised institutions while still accomplishing the purposes of the examination. Under the Bureau's

disclosure rules, it generally may not reveal confidential supervisory information, which would include the identities of institutions and the substance of discussions with them within the context of the supervision process. 12 C.F.R. part 1070.

CAPITO/DUFFY 44.

How does the CFPB plan to utilize the data it collects in each of the following areas: (i) research and analysis, (ii) supervision, (iii) enforcement, and (iv) regulation?

Response

The Consumer Financial Protection Bureau (Bureau) has several tools for gathering information, including through examinations, civil investigative demands, publicly available sources, consumer complaints, and through the Section 1022(c)(4) authority discussed above.

Data collected using one of these tools may be relevant to both the function for which it was collected and another related function. For example, one of the Bureau's primary functions is to collect, investigate, and respond to consumer complaints. Although the Bureau receives complaints in the course of performing this function, the complaints, and the data derived from them, also support other Bureau functions, including, for example, its consumer education function and its supervisory and enforcement functions. Similarly, data the Bureau gathers in examining institutions for purposes of detecting risks to consumers and to consumer financial markets will also often help the Bureau fulfill Congress' mandate that it monitor the markets for risks to consumers.

The Bureau utilizes the data it possesses for empirical analyses such as those included in our reports on private student loans (which relied on anonymized data provided voluntarily to the Bureau by a number of lenders) and payday lending and deposit advance products (which relied principally on data collected through supervisory exams). These analyses may include descriptive tabulations in addition to more formal econometric modeling, which together, support the Bureau's mission to understand consumer financial markets; to monitor for risks to consumers in the offering or provision of consumer financial products or services; and more generally, to follow developments in markets for such products or services. These data and analyses also support policy development, including rulemaking and any related considerations of the benefits, costs, and impact of particular rules.

The Bureau utilizes data—including data gathered during examinations, consumer complaints, and publicly available data—to prioritize its supervisory activities and to examine institutions' compliance with Federal consumer financial law, their compliance programs, and the risks their activities pose to consumers.

The Bureau is directed to enforce Federal consumer financial law for the protection of consumers, and is authorized to obtain information where there is reason to believe it may be relevant to a violation of that law. The Office of Enforcement uses such information to uncover wrongdoing by those who violate Federal consumer financial protection laws, to prevent and deter such violations, and to obtain refunds and other relief for consumers who have been harmed. Such information, which may include data that contains individual information, is obtained and maintained in accordance with all applicable laws and protections.

In fifteen enforcement actions resolved since the Bureau's creation in 2011, the Bureau has levied fines of more than \$62 million and has obtained orders requiring more than \$445 million to be returned to 5.8 million consumers who were harmed by the unlawful practices of credit card companies, foreclosure and debt relief scams, and mortgage referral kickback schemes.

CAPITO/DUFFY 45.

How does the CFPB plan to ensure that personally identifiable information (PII) obtained through the consumer complaint process is not used contrary to gathering limitations on such information under CFPB rulemaking authority?

Response

The limitations on the Consumer Financial Protection Bureau's (Bureau) gathering of personally identifiable financial information to which this question refers are contained in Section 1022(c)(4)(C) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which concerns the Bureau's authority to obtain records from regulated entities to perform its market monitoring and reporting obligations. This provision does not relate to the Bureau's consumer complaint functions. The Dodd-Frank Act expressly requires the Bureau to accept and assist in the resolution of consumer complaints. Inherent in such a requirement is authority to collect personally identifiable information from consumers who choose to submit complaints to enable the Bureau to facilitate the complaint resolution process. The Bureau's collection of personally identifiable information during the consumer complaint process thus does not conflict with Section 1022(c)(4)(C) and its limitations in any way.

CAPITO/DUFFY 46.

The CFPB's Privacy Policy released on December 6, 2012 states "Before we collect PII, we tell you what we are collecting, why we are collecting it, and how we are going to use it." Is the CFPB currently living up to its privacy policy? Who is the "you" in this statement and where is this information displayed that tells "you" what, why and how PII is used?

Response

The "you" referred to in the Privacy Policy published by the Consumer Financial Protection Bureau (Bureau) on December 6, 2012 is the American consumer. The Bureau is living up to its Privacy Policy. In numerous ways, the Bureau notifies individuals of its intentions to collect personally identifiable information, of its purposes in doing so, and of its uses of such information. For example, the Bureau publishes in the Federal Register Systems of Records Notices, as required by the Privacy Act, which contain such notifications with respect to major categories of the Bureau's information collection activities, including its supervisory, law enforcement, consumer response, and consumer research activities. The Bureau also provides Privacy Act Statements to individual consumers when it collects information from them directly, such as when it accepts consumer complaints. Many Bureau media releases and policy statements also include discussions of the details of its information collection activities. Finally, in many instances, the statutes governing the Bureau's activities provide notice by expressly requiring or authorizing the Bureau to collect certain information, such as consumer complaints, and to use that information for certain purposes. The Bureau's comprehensive Privacy Policy and Legal Notices, available at <http://www.consumerfinance.gov>, provide further information.

CAPITO/DUFFY 47.

Would forcing financial institutions to disclose this information cause them to violate their legal obligations to protect the privacy of the customers' personal information?

Response

The Consumer Financial Protection Bureau does not require financial institutions to disclose information that would violate their legal obligations to protect the privacy of customers' personal information. For information about the application of the Gramm-Leach-Bliley Act and its implementing regulations to the disclosures at issue here, please see the response to question 30.

CAPITO/DUFFY 48.

Is the amount of data and the frequency of the data collection appropriate for the specific stated purpose by CFPB for how the agency intends to use the data?

Response

The Consumer Financial Protection Bureau's (Bureau) responses herein, including responses to questions 1, 3, and 44, describe the Bureau's usage of data to fulfill its statutory mandates, including supervision, enforcement, regulation, research and analysis, and consumer response. The Bureau makes every effort to ensure that its data collections are appropriate in frequency and amount to the regulatory functions for which they are to be used. For example, the Consumer Credit Panel and the National Mortgage Databases are updated quarterly. This reduces the cost compared to a monthly update and still provides information in a timely fashion. With respect to the credit card database, the credit card issuers who are clients of Argus already provide information to Argus on a monthly basis. Thus, the credit card database is updated monthly. This assures that as supervisory examinations are planned and conducted, the Bureau is operating on the most current data.

CAPITO/DUFFY 49.

Is it possible for the CFPB, or any third party vendor working on behalf of the CFPB, to reverse engineer raw data to identify individual consumers?

Response

The Consumer Financial Protection Bureau (Bureau) is sensitive to the concept and risks of re-identification generally and has been careful to minimize that risk by using de-identified data to perform its market-monitoring function and by keeping each data collection for market monitoring separate from other such collections. The Bureau purposefully reduces the likelihood of data being re-identified by restricting access to data to those whose work requires it, and providing privacy and security training to Bureau personnel on how to handle and protect data appropriately. Neither the Bureau nor its contractors (who are subject to the same security requirements as Bureau employees) attempt to re-identify data that is or has been rendered de-identified.

CAPITO/DUFFY 50.

Has the CFPB set a time period for retaining this data, and will the individual consumer financial information be purged from all federal records after this retention period?

Response

The Consumer Financial Protection Bureau (Bureau) will manage all computer and paper files as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the Bureau will dispose of such files in accordance with the schedule.

CAPITO/DUFFY 51.

Has the CFPB suffered any breaches of data, and has any data breach reached consumer information?

Response

To date, the Consumer Financial Protection Bureau (Bureau) has been notified of and responded to a total of 3 incidents that were deemed to be breaches, which is defined as involving the breach, loss, or compromise of personally identifiable information (PII). Each incident involved the PII of one consumer, and each consumer was notified of the incident(s) and provided credit monitoring services/subscriptions for one year. The breaches impacted consumers who had submitted complaints through the Bureau's consumer response system. In each case, the breach resulted from a Bureau employee error. The employees received additional training, the consumer response system was updated to allow only one complaint to be accessed at a time to reduce the chance of human error when attaching documentation, and additional supervisor checks have been established.

CAPITO/DUFFY 52.

Are data sets gathered from the CFPB's market research function merged with data sets from its consumer complaint database? Or are there walls in between this data?

Response

The data sets gathered for market research are not merged with consumer complaint data sets.

Regarding the CFPB's SORN entitled "CFPB.022 – Market and Consumer Records," please answer the following questions fully:

CAPITO/DUFFY 53.

What data is being collected, used, disseminated, or maintained in the system?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau, nor a single Market and Consumer Records database.

The Market and Consumer Research Records SORN set out the types of records that could be collected and the potential uses that could be made of those records. The Bureau believes that in publishing SORNs for public comment it is appropriate to identify the range of potential data to be collected and potential uses. As documented in the SORN, the records may include:

(1) contact information (e.g., names, phone numbers, email addresses, physical addresses, and governmental-issued identification numbers); (2) information collected from consumers as part of surveys, randomized controlled trials, or through other mechanisms; (3) consumer financial transaction data and other information related to consumers' financial statuses; (4) information about the legal relationships between consumers and market participants, such as contracts and dispute records; (5) information about commercial relationships between consumers and other market participants; and (6) information on consumer characteristics collected by market participants or other entities.

No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 54.

Why is the information being collected, used, disseminated, or maintained?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met should any data collection necessitating a SORN be undertaken.

In general, the reason for information being collected, used, disseminated, or maintained is documented in a SORN. In this case, as documented in the SORN, were data to be collected, it would be collected for purposes of monitoring, researching, analyzing, and reporting information relevant to the functioning of markets for consumer financial products and services.

CAPITO/DUFFY 55.

What are the sources of information in the system?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

Potential sources of information are documented in the SORN for Market and Consumer Research Records, which was published on November 14, 2012. The SORN set out the types of potential sources of information that could be accessed and the potential uses that could be made

of records drawn from those sources. The Bureau believes that in publishing SORNs for public comment it is appropriate to identify the range of potential data to be collected and potential uses.

CAPITO/DUFFY 56.

What technologies are being used to collect the data?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau primarily receives data through secure File Transfer Protocol (sFTP) and physical media transfers. Secure File Transfer Protocol is a standard protocol that enables the secure transferring of files from one entity to another. When in-taking data by physical media, the dataset is uploaded into a secure environment and the physical media is delivered to the Records team for retention.

CAPITO/DUFFY 57.

How is the information collected?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 58.

What legal authority and/or agreements allow the information to be collected?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

A number of provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act,

among them 12 U.S.C. § 5512(c), 12 U.S.C. § 5514(b), 12 U.S.C. § 5515(b), 12 U.S.C. § 5534, and 12 U.S.C. § 5562, authorize the Consumer Financial Protection Bureau to request information.

CAPITO/DUFFY 59.

What information is retained? How long and for what reason is it retained?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau will manage all computer and paper files as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the Bureau will dispose of such files in accordance with the schedule.

CAPITO/DUFFY 60.

Is there a records retention schedule that has been approved by the National Archives and Records Administration (NARA) for the information system? If so, what is the name of the records retention schedule? If not, why not? If a records retention schedule has been drafted but not yet approved by the NARA, please provide a copy of the draft schedule.

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Bureau is currently drafting a retention schedule for the data that may be collected with respect to the SORN for Market and Consumer Research Records.

CAPITO/DUFFY 61.

Are there any forms or surveys that are associated with the collection of the information that would be covered by the Paperwork Reduction Act?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these

privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 62.

Are there any privacy risks for this system that relate to the purpose of the collection? If so, how will the CFPB mitigate these risks?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The general privacy risks associated with all collections of personally identifiable information is that individuals do not understand how information about them is being used, and that the PII is inappropriately used or disclosed. The Bureau takes care to provide individual with notice of the authority under which it is collecting information, and maintains such information in a manner consistent with the Privacy Act of 1974, 5 U.S.C. § 552a, the Federal Information Security Management Act of 2002, 44 U.S.C. § 3541 et seq., and other applicable Federal laws and regulations. The Bureau further mitigates privacy risks by relying on pulling samples or conducting surveys of population segments; by limiting access to information to personnel with a business need for that access; by providing its personnel with privacy and security training as well as job training to ensure the appropriate use and protection of information; and by reducing the risk of misuse of the data by removing direct or personal identifiers, masking, or aggregating the data as appropriate to the use.

CAPITO/DUFFY 63.

Are individuals given notice prior to the collection of personal information about them? If not, why not?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects personal information from individuals directly, the Bureau provides individuals with actual notice through a Privacy Act Statement. When the Bureau collects information about individuals indirectly, including when it obtains such information from other agencies, financial institutions, or other third parties, the Bureau provides individuals to whom the information pertains with notice of its collection activities by publishing a SORN in the Federal Register. In addition to these Privacy Act notices, in general, the Bureau also

provides notice of its information collection activities through media such as press releases, policy statements, and web postings.

CAPITO/DUFFY 64.

Are individuals given notice prior to their information being shared with any entity outside of the CFPB? If not, why not?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

When the Bureau collects information about individuals indirectly, including when it obtains such information from other agencies, financial institutions, or other third parties, the Bureau provides individuals to whom the information pertains with notice of its collection activities by publishing a SORN in the Federal Register.

CAPITO/DUFFY 65.

Do individuals have the opportunity and right to decline to provide information?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects personal information from individuals directly, the Bureau provides individuals with actual notice through a Privacy Act Statement that informs such individuals as to whether their provision of information to the Bureau is mandatory or voluntary and, if mandatory, what the consequences to them are, if any, of their refusals to provide the information to the Bureau. When the Bureau collects information about individuals indirectly, including when it obtains such information from other agencies, financial institutions, or other third parties, the Bureau provides individuals to whom the information pertains with notice of its collection activities by publishing a SORN in the Federal Register. In these instances of indirect collection, the Bureau does not generally provide individuals with an opportunity to refuse to provide the information to the Bureau.

CAPITO/DUFFY 66.

Do individuals have the right to consent to particular uses of the information? If so, how does the individual exercise the right?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, when the Bureau collects personal information directly from individuals, the individuals would be notified regarding applicable opportunities and rights to consent to particular uses of their information to the extent provided under the Privacy Act. They may have the right to decline to provide information or withhold consent at the time the information is collected.

CAPITO/DUFFY 67.

Whose information is included in the system?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022). There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 68.

What Personally Identifiable Information will the system include? Why is the collection and use of Personally Identifiable Information necessary to the project or system?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022). There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 69.

Will the system aggregate previously unavailable data about the individual to create new data about the individual? If so, how will this data be maintained and used?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 70.

What controls exist to protect the consolidated data and prevent unauthorized access?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Bureau practice is to categorize all of its systems using Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199). Based on this categorization, the Bureau implements security controls from National Institute of Standards and Technology Special Publication 800-53, Recommended Security Controls for Federal Information Systems and Organizations, to secure its data. Any additional Bureau policies, processes, and procedures, including those related to access, are based on these standard federally-practiced controls, industry best practices, as well as other guidelines and mandates issued for government agencies.

CAPITO/DUFFY 71.

Will the system monitor the public?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

With respect to information collected by the Bureau, please see response to questions 1 and 17.

CAPITO/DUFFY 72.

What kinds of reports can be produced on individuals? Will the data included in the reports produced be anonymized?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Bureau does not publish reports of data that are directly identifiable to any particular consumer or that it has reason to believe are likely to identify any particular consumer indirectly.

CAPITO/DUFFY 73.

How will the information in this system be used?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

With respect to information collected by the Bureau and its use, please see response to questions 1 and 17.

CAPITO/DUFFY 74.

Is the information in the project limited to only the information that is needed to carry out the purpose of the collection?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau collects information to carry out its statutory mandates with emphasis on promoting efficiency and minimizing burdens on those involved in the collection.

CAPITO/DUFFY 75.

What types of tools are used to analyze data and what type of data may be produced?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau uses standard statistical querying tools such as SAS, Stata, Matlab and Gauss to analyze data. Using these tools, the Bureau is able to produce descriptive analyses and more complex econometric models

CAPITO/DUFFY 76.

If the system uses commercial or publicly available data, how and why is this data used?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

With respect to commercial or publicly available data collected by the Bureau, please see responses to questions 1 and 17.

CAPITO/DUFFY 77.

With which internal organizations is information shared? What information is shared, and for what purpose? How is this information transmitted or disclosed?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 78.

With which external organizations, including federal, state, local, or foreign agencies, or private sector organizations, is information shared? What information is shared, and for what purpose?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 79.

Is the sharing of information outside the CFPB compatible with the original collection? What legal mechanisms, authoritative agreements, documentation, or policies are in place detailing the extent of the sharing and duties of each party?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The SORN covering Market and Consumer Research states that the Bureau may share externally certain information as authorized by law.

CAPITO/DUFFY 80.

Under what legal mechanism is the system allowed to share the information in identifiable form or personally identifiable information outside of the CFPB?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

The Privacy Act of 1974 generally prohibits the disclosure of a record contained in a system of records, except as provided for in the Privacy Act or pursuant to a routine use described in a

SORN. The Market and Consumer Research Records SORN set out the types of records that could be collected and the potential use and disclosures that could be made of those records. In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §5512(c)(6), directs the Bureau to “prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under Federal consumer financial law,” and to, in certain circumstances, provide access to other agencies to confidential supervisory information. To these ends, the Bureau promulgated regulations, at 12 C.F.R. part 1070, that set forth its rules regarding the appropriate treatment of confidential information. These rules, in limited circumstances, authorize the sharing of confidential information.

CAPITO/DUFFY 81.

How is the data transmitted or disclosed to these entities? What security measures safeguard its transmission?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau’s (Bureau) SORN entitled “CFPB.022 – Market and Consumer Research Records.” There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 82

How is the data secured by external recipients?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau’s (Bureau) SORN entitled “CFPB.022 – Market and Consumer Research Records.” There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 83.

Will the database interact with other systems, whether within the CFPB or outside the CFPB? If so, which databases and how?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau’s (Bureau) SORN entitled “CFPB.022 - Market and Consumer Research Records.” There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 84.

How is the information collected by the database verified for accuracy and completeness?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022)." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 85.

Who has access to data in this project? How many total individuals have been authorized by the CFPB to access the data? What is the authorization process for access to the project? Has every individual with access to the CFPB's database been subjected to – and passed – a full background investigation?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022)." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN. The SORN was proactively published; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 86.

Do CFPB contractors and/or agents have access to the system? If so, what controls exist to ensure appropriate access and what Privacy Act clauses have been inserted in their contracts?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to this SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, contractors (including contractor employees and subcontractors) may have access to specific databases, with access limited by several control points provided by the general Cybersecurity and IT Security clauses included in Bureau contracts. These clauses operate to ensure adequate contractor IT processes and contract employee IT security awareness training; contractor compliance with relevant Federal laws, including but not limited to the Federal Information Security Management Act of 2002 (FISMA); Bureau oversight of contractor cybersecurity and pre-screening of contractor personnel; and signed contractor nondisclosure agreements (NDAs), as appropriate.

CAPITO/DUFFY 87.

How many contractors and agents currently have access to the database?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, access to Bureau data is controlled and access logs to Bureau systems are kept and maintained in accordance with Bureau policy based on National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidelines.

CAPITO/DUFFY 88.

How is access to the data by a user determined? Are procedures documented? Are access logs kept?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 – Market and Consumer Research Records" (CFPB.022). There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, Bureau Technology staff follow a process that generates an approved privileged user access list following an articulated justification as to why access is required for any given database. Access to Bureau data is controlled and access logs to Bureau systems are kept and maintained in accordance with Bureau policy based on National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidelines.

CAPITO/DUFFY 89.

Has the CFPB completed a system security plan for the information system supporting this project?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

CAPITO/DUFFY 90.

How is the system secured?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau categorizes its systems using Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199). Based on this categorization, CFPB then utilizes recommended security controls from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) to secure its systems and data. Bureau policies, processes, and procedures, including those related to access are based on these controls as well as other federally-mandated guidelines and standards.

CAPITO/DUFFY 91.

Are there any mechanisms in place to identify security breaches? If so, what are they?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Consumer Financial Protection Bureau has multiple security controls in place to identify security breaches of CFPB databases and Systems of Record. These controls are derived from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidance and include audit log monitoring, analysis, and reporting. A "defense in depth" approach is used that includes monitoring at various levels of the system from application, operating system, database to network firewalls and intrusion detection systems (IDS).

CAPITO/DUFFY 92.

What auditing measures/controls and technical safeguards are in place to prevent misuse (e.g., unauthorized browsing) of the data?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's SORN entitled "CFPB.022 – Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, the Bureau's controls are derived from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) guidance. Access to data and system resources is limited; technical controls and other safeguards are implemented and monitored to identify potential misuse.

CAPITO/DUFFY 93.

What opportunities are available for individuals to consent to uses, decline to provide information, or opt out of the project? If no opportunities are available to consent, decline or opt out, why not?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects information directly from individuals under the Privacy Act, it provides them with Privacy Act Statements that inform such individuals as to whether their provision of information to the Bureau is mandatory or voluntary and, if mandatory, what the consequences to them are, if any, of their refusals to provide the information.

CAPITO/DUFFY 94.

What procedures will allow individuals to access their information?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau's (Bureau) SORN entitled "CFPB.022 - Market and Consumer Research Records." There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met and public comment solicited should any relevant data collection necessitating a SORN be undertaken.

In general, where the Bureau collects information that is retrieved by a direct or personal identifier and maintained in a SORN under the Privacy Act, individuals may request access to, amend, and correct records that pertain to them by submitting a request in writing in accordance

with instructions appearing in Title 12 part 1070 of the Code of Federal Regulations, “Disclosure of Records and Information.”

CAPITO/DUFFY 95.

Can individuals amend information about themselves in the system? If so, how? If not, why not?

Response

Please see the response to question 94.

CAPITO/DUFFY 96.

What are the procedures for correcting inaccurate or erroneous information?

Response

Please see the response to question 94.

CAPITO/DUFFY 97.

How are individuals notified of the procedures for correcting their information?

Response

Please see the response to question 94.

CAPITO/DUFFY 98.

What privacy training is provided to users, either generally or specifically relevant to the project?

Response

As requested, this response pertains to the Consumer Financial Protection Bureau’s (Bureau) SORN entitled “CFPB.022 - Market and Consumer Research Records.” There is no single system of consolidated data maintained by the Bureau. No activities have taken place with respect to that SORN; the Bureau published the SORN proactively with the goal of having these privacy requirements met should any data collection necessitating a SORN be undertaken.

In general, the Bureau provides privacy and security training to all employees of the Bureau, including contractors who handle personally identifiable information on behalf of the Bureau, in accordance with OMB M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007, available at <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>.

QUESTIONS FROM REP. BLAINE LUETKEMEYER

LUETKEMEYER 1.

According to recent reports, the CFPB has entered into more than \$15 million worth of contracts with credit reporting agencies, consultants and data analysis companies for the collection and analysis of consumer data. What is the justification for spending this amount of money and obtaining this type of data?

Response

In carrying out its congressionally-mandated supervisory, enforcement, and regulatory functions, the Consumer Financial Protection Bureau (Bureau) relies on rigorous empirical analyses – grounded in data – to understand how the markets for consumer financial products and services actually work. Data analysis is also fundamental to fulfilling the Bureau’s mandate to protect consumers. Analysis of data, as the law creating the Bureau contemplated, enables the Bureau not only to better protect and educate consumers, but also to coordinate with other regulators and craft tailored rules based on careful examination of costs and benefits. The Bureau’s evaluation of this data also allows it to provide meaningful reports, as required by Congress, and to perform its consumer response function.

LUETKEMEYER 2.

While the CFPB claims to be data driven, two of its recent studies on payday loans and overdraft products had several pages of compelling data yet drew several conclusions that were not supported by the data in either report. Furthermore, the studies did not examine any alternatives to these products. Why did the CFPB spend time studying these products only to draw unsupported conclusions? Given the burden to business and cost to the taxpayers that are associated with the CFPB’s current data collection efforts, how will the CFPB ensure that future reports are empirically based, rather than drawing unsupported conclusions?

Response

The Consumer Financial Protection Bureau’s white papers on payday loans and deposit advance and overdraft programs are based on analytically rigorous and objective analysis of a robust dataset. Both studies draw conclusions that are supported by the data. In each case, the study contained a concluding section which discusses some of the potential policy implications of the empirical findings and identifies areas for future study.

LUETKEMEYER 3.

If detailed consumer information the CFPB receives is “de-identified”, how does the agency ensure that the information is not “re-identified”?

Response

The Consumer Financial Protection Bureau (Bureau) is sensitive to the concept and risks of re-identification generally and has been careful to minimize that risk by purchasing data without direct or personal identifiers and by securing its credit card database account-level data without direct or personal identifier. The data the Bureau has obtained for its market-monitoring activities is maintained in discrete databases and the Bureau does not have any common identifiers that would allow data to be linked across databases. Bureau personnel are required to

complete privacy training on an annual basis, which includes how to use and protect personal information appropriately. To the extent the Bureau publishes studies analyzing consumer financial markets, it has presented the information in an aggregate form that cannot be used to identify, either directly or indirectly, any particular individual.

LUETKEMEYER 4.

The Right to Financial Privacy Act (RFPA) and Dodd-Frank require federal agencies to provide notice to consumers before obtaining information about the consumers from a “financial institution.” Dodd-Frank also provides that CFPB may not obtain personally-identifiable information without first obtaining written permission from the consumer. Specifically, how has the CFPB complied with these regulations? Has the CFPB obtained written permission before obtaining this information from credit bureaus?

Response

The Consumer Financial Protection Bureau (Bureau) complies with Right to Financial Privacy Act (RFPA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), which contain exceptions to their generally applicable notice provisions for the Bureau and other federal agencies in certain circumstances. Various exceptions to the RFPA, as amended, authorize the Bureau to obtain information from financial institutions about their customers without first providing notice to and obtaining the consent of such customers. Additionally, the restrictions set forth in the RFPA apply only to information that is identifiable to particular customers of financial institutions. Where the Bureau seeks information from financial institutions that excludes direct or personal identifiers, the restrictions of the statute do not apply.

LUETKEMEYER 5.

Has the Bureau complied with provisions of the Privacy Act such as obtaining public comment about the proposed creation of a “system of records”? If not, why not?

Response

When required by the Privacy Act, the Consumer Financial Protection Bureau (Bureau) publishes System of Records Notices in the Federal Register for public comment. Also as required by the Privacy Act, the Bureau forwards copies of SORNs to the House of Representatives Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget.

LUETKEMEYER 6.

What steps has the Bureau taken to ensure the security and confidentiality of the information in the loan level database? Where will the information be maintained and by whom?

Response

The Consumer Financial Protection Bureau (Bureau) does not maintain a single loan-level database. At present, we have acquired commercially-available mortgage datasets, the credit panel from a credit reporting agency, and are developing the National Mortgage Database. In addition, we have various datasets collected under the Bureau’s supervisory or enforcement authority.

The Bureau categorizes all of its datasets using Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199). Based on this categorization, the Bureau implements security controls from National Institute of Standards and Technology Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations to secure its data. Any subsequent Bureau policies, processes, and procedures, including those related to access, are based on these standard federally-practiced controls, industry best practices, as well as other guidelines and mandates issued for government agencies.

LUETKEMEYER 7.

The Office of Inspector General for the Federal Reserve System recently reported that the CFPB needed to strengthen its security controls around its consumer response system. Given these data security concerns about the CFPB's existing data collection efforts, how does the system that holds all the consumer data differ in terms of data security?

Response

The Consumer Financial Protection Bureau (Bureau) appreciates the efforts of the Office of Inspector General (OIG) directed at improving Bureau's operations, and is pleased that the OIG's review of the Bureau's information security procedures did not identify any reportable conditions in the design or implementation of the relevant controls. Based on the Federal Information Processing Standard Publication 199, Standards for Security Categorization of Federal Information and Information Systems (FIPS 199), the consumer response system and other systems hosting data have been categorized as moderate and therefore utilize the associated recommended security controls from National Institute of Standards and Technology (NIST) Special Publication 800-53 Recommended Security Controls for Federal Information Systems and Organizations (NIST SP 800-53) to secure its systems and data appropriately. The OIG's report noted measures taken by the Bureau to secure data within the system, and the configuration and change control processes that are based on the guidance provided by NIST. The Bureau's Cybersecurity Program has been dedicated to continuous improvement, including implementing recommendations from OIG. At the time of the OIG report's publication, the Bureau had already had begun to take action on its recommendations and to finalize integral policies and procedures that address many of the issues discussed in the report.

LUETKEMEYER 8.

Consumer financial services providers have strict requirements for notifying consumers of when their personal information may have been subject to a data breach. What procedures are in place for the CFPB to notify consumers and businesses subject to its latest collection efforts in the event of a security breach? Will the CFPB plan to offer any kind of redress to financial services market participants who lose proprietary information, and therefore suffer market losses as a result from a breach in data security?

Response

The Consumer Financial Protection Bureau (Bureau) continues to rely, in part, on elements of Treasury's network and related IT infrastructure, including Treasury's directives that relate to security and privacy incidents. In anticipation of the Bureau's move to its own network infrastructure, the Bureau has developed new directives related to security and privacy incidents,

which it will issue upon network independence. In the interim, the Bureau has developed supplemental incident-reporting materials for managing the breach, loss, or compromise of personally identifiable information (PII). These materials, in conjunction with processes outlined in Treasury's privacy and security incident directives, help the Bureau meet the requirements around the suspected or confirmed breach, loss, or compromise of PII outlined in OMB-issued guidance (i.e. OMB M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007). As part of its supplemental interim procedures, the Bureau would assess the risk significance (or analyze the risk of harm) posed by a breach, loss, or compromise of PII to determine if notification, outreach, or additional mitigation is warranted or necessary. This would include alerting impacted individual consumers when their PII is confirmed breached. When deemed necessary (i.e. risk of harm is deemed high), additional mitigation steps might include, for example, offering impacted individuals credit monitoring subscriptions/services.

LUETKEMEYER 9.

Dodd-Frank authorizes the Bureau to collect data that is "necessary" for it to fulfill its statutory duties. Why is it "necessary" to collect the volume of information that the Bureau plans to compile? Why would not data sampling suffice?

Response

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) contains a number of separate grants of authority to the Consumer Financial Protection Bureau (Bureau) to collect information, as well as a general authority to enter into contracts to purchase goods and services, including data. Under section 1022(c)(4)(B)(ii) of the Dodd-Frank Act, the Bureau can require covered persons or service providers to provide reports or answers to questions by rule or order as "necessary for the Bureau to fulfill the monitoring, assessment and reporting responsibilities imposed by Congress" including the responsibility to "monitor risks to consumers in the offering or provision of consumer financial products or services" and "developments in markets for such products or services." The Bureau has used this and other information collection authorities in an appropriate fashion. For example, the Bureau's recently-issued orders requiring certain covered persons to provide standard form consumer credit agreements will assist it in completing the study mandated by section 1028(a) of the Dodd-Frank Act.

The Bureau's responses herein, including specifically the response to Capito/Duffy question 1 and 44 above, describe the Bureau's usage of data to fulfill its statutory mandates, including in areas such as supervision, enforcement, regulation, research and analysis, and consumer response. The Bureau makes every effort to ensure that its data collections are appropriate in size, frequency, and number to the regulatory functions for which they are to be used.

The Bureau recognizes the importance of minimizing burdens on the institutions it supervises. The Bureau has collected random samples of data for its consumer credit panel and the Bureau, in collaboration with the Federal Housing Finance Agency is using sampling for the national mortgage database. In certain instances, the Bureau has been able to modify its information requests and demands to reduce the burden on the institutions while still accomplishing the purposes of the examination or enforcement action. For the credit card database, credit card

issuers provide a full file of accounts to the Bureau's contractor rather than a random sample because this is the same format in which they provide data to the same contractor for benchmarking services that they purchase from the contractor pursuant to private agreements. This reduces costs and burden for the issuers supplying the data as it avoids the need to draw a random sample, to provide data with respect to those accounts on an ongoing basis, and to add to the sample each time the data is provided to assure that the sample remains representative of all accounts, including newly-originated accounts.

LUETKEMEYER 10.

The Paperwork Reduction Act requires the CFPB to obtain a "control number" from OMB for any collections of information, and to explain how the information limits the burden for businesses and individuals to the minimum necessary. Has the Bureau sought or obtained OMB clearance for these collections of information? If not, why not?

Response

The Consumer Financial Protection Bureau has sought and obtained OMB clearances consistent with the Paperwork Reduction Act.

REP. BILL POSEY (FL-8)

During my committee question time, I referenced a December 21, 2012 letter sent to the CFPB containing 19 specific questions. Two months later, on February 21, 2013, I received a three paragraph letter that did not provide to a single specific response to any of the questions from my December letter.

I therefore ask, once again, for you to answer the following 19 questions:

POSEY 1.

What is the CFPB's statutory authority to collect, each month, detailed information on every loan in certain financial institutions' portfolios?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” The Bureau, in the exercise of its supervisory authority, is obtaining data stripped of direct or personal identifiers with respect to all credit card accounts maintained by a number of large card issuers. This data is collected and housed on behalf of the Bureau by Argus Information and Advisory Services, a company that is in the business of obtaining account-level data for credit cards and other financial services from financial services companies. The data being provided to the Bureau are the same type of data that credit card issuers regularly provide to Argus, such as the monthly balance, fees charges, interest charged, and payments received on accounts. The data the Bureau receives does not include transactions, such as purchases.

A number of provisions in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), among them 12 U.S.C. § 5512(c), 12 U.S.C. § 5514(b), 12 U.S.C. § 5515(b), 12 U.S.C. § 5534, and 12 U.S.C. § 5562, authorize the Consumer Financial Protection Bureau to request information. Sections 1024 through 1026 of the Dodd-Frank Act, 12 U.S.C. §§ 5514-5516, authorize and regulate the Bureau's supervisory activity, including the gathering of the information collected and housed by Argus.

POSEY 2.

What provision of law specifically permits or requires the CFPB to collect loan level data?

Response

Please see the response to question 1.

POSEY 3.

How many institutions have been asked to furnish data to the Bureau for this project? How many individual consumers' records will be included in the database?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. Fewer than 10 institutions have been asked to furnish credit card data to the Consumer Financial Protection Bureau (Bureau) for purposes of this project. The Bureau

is unable to determine the number of individual consumers' records covered as the records are provided on a de-identified basis so that the Bureau cannot link the data in order to determine whether multiple records represent multiple individuals or multiple accounts of a single individual.

POSEY 4.

Dodd-Frank authorizes the Bureau to collect data that is "necessary" for it to fulfill its statutory duties. Why is it "necessary" to collect the volume of information that the Bureau plans to compile? Why would not data sampling suffice?

Response

Your December 21, 2012 letter inquired about a "loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. In support of this project, credit card issuers provide a full file of accounts to the Bureau's contractor rather than a random sample because this is the same format in which they provide data to the same contractor for benchmarking services that they purchase from the contractor pursuant to private agreements. This reduces costs and burden for the issuers supplying the data as it avoids the need to draw a random sample, to provide data with respect to those accounts on an ongoing basis, and to add to the sample each time the data is provided to assure that the sample remains representative of all accounts, including newly-originated accounts.

POSEY 5.

If the data is "necessary" for consumer protection purposes, why is the Bureau obtaining it only from a small number of financial institutions?

Response

Your December 21, 2012 letter inquired about a "loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau is collecting credit card data as part of its supervision program and not pursuant to Section 1022(b)(4)(B)(ii) of the Dodd-Frank Act. The issuers from whom the data is being collected are the largest credit card issuers and thus have particularly significant potential to create risks to consumers.

POSEY 6.

How will the Bureau protect consumers of institutions that are not subject to the data collection requirement?

Response

Your December 21, 2012 letter inquired about a "loan level data' project . . . to collect information on consumer credit card accounts." Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau (Bureau) uses all of its available authorities to protect consumers of financial products and services. The Bureau seeks to use its limited resources in the most effective way possible, including choosing carefully the institutions on which to focus its supervisory, enforcement, and other efforts.

POSEY 7.

The Dodd-Frank provision authorizing the Bureau to obtain information for supervisory purposes refers to the “periodic” collection of information. How does an ongoing and perpetual collection of information meet the “periodic” standard?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau (Bureau) is authorized to gather information from institutions it supervises in order to assess compliance with the requirements of Federal consumer financial law, obtain information about the institutions’ activities and compliance systems or procedures, and detect and assess risk to consumers and to consumer financial markets. Like other financial regulators, the Bureau receives, from certain institutions, loan-level data on a periodic basis relating to certain types of products. The Bureau is not receiving a real-time stream of continuous information about these products.

POSEY 8.

What are the specific purposes of collecting extensive personally-identifiable financial information about virtually everyone with a home mortgage or credit card? Why could such purpose(s) not be achieved by collecting a narrower set of data, or by the use of sampling?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau (Bureau) does not collect personally identifiable financial information about virtually everyone with a home mortgage or with a credit card. The national mortgage database which the Bureau and the Federal Housing Finance Agency (FHFA) are jointly creating contains a random sample of de-identified records of consumers with home mortgages drawn from the national credit reporting agency with whom the FHFA has contracted. Likewise, the Consumer Credit Panel is based on a small representative sample of the US population (approximately 2 to 4%) and contains only de-identified records. The credit card database contains records of all accounts from the issuers supplying this data for the reasons explained in response to question 4. The information in these databases is stripped of direct or personal identifiers.

POSEY 9.

What steps has the Bureau taken to ensure the security and confidentiality of the information in the loan level database? Where will the information be maintained and by whom? When and how will such information be destroyed after use?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. Loan-level credit card data is being maintained for the Bureau by Argus Information & Advisory Services which performs this same service for many credit card

issuers. Please see the sections relating to security and confidentiality in the contract with Argus Information & Advisory Services produced in response to Capito/Duffy question 6.

The Bureau will manage all files in the system as permanent records until the disposition schedule for these records is approved by the National Archives and Records Administration, at which time, the Bureau will dispose of such files in accordance with the schedule.

POSEY 10.

Has the Bureau informed the financial institutions whose information is being collected of such security and confidentiality measures? If not, how can financial institutions who furnish information to the Bureau comply with their GLBA obligation to maintain the security of personally identifiable customer information?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. The information that the Consumer Financial Protection Bureau receives about consumers for the purposes of this project comes directly from financial institutions, and all of this information excludes direct or personal identifiers. The Gramm-Leach-Bliley Act and its implementing regulation, Regulation P, define “personally identifiable financial information” to exclude “information that does not identify a consumer, such as aggregate information or blind data that does not contain direct or personal identifiers, such as account numbers, names, or addresses.” 12 C.F.R. Section 1016.3(q)(2)(ii)(B).

Even assuming that the financial institutions were disclosing personally identifiable financial information for this project, these disclosures would be exempt under the Gramm-Leach-Bliley Act and Regulation P. The Gramm-Leach-Bliley Act and Regulation P do not restrict financial institutions from disclosing personally identifiable financial information about consumers to “government regulatory authorities having jurisdiction for examination, compliance, or other purposes as authorized by law.” 15 U.S.C. 6802(e)(8) and 12 C.F.R. Section 1016.15(a)(7)(iii).

POSEY 11.

In the event of a breach of CFPB security that results in a loss to consumers and the institutions that furnished information about them, who is liable for the loss?

Response

Should the Consumer Financial Protection Bureau (Bureau) experience an incident that results in such a loss, the incident would be handled according to the Bureau’s incident response procedures. These procedures are consistent with government standards and incorporate best practices from public and private sector incident handling teams. Liability for loss would typically be determined based on the factors that led to a breach.

POSEY 12.

Will the Bureau share information in the loan level database with other government agencies (e.g., OCC, FDIC, Federal Reserve, IRS, state consumer protection or tax officials?) Does the Bureau have the authority to refuse to share information with such entities?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau has entered into a Memorandum of Understanding with the Office of the Comptroller of the Currency (OCC) under which the loan level data in the credit card database can be shared with the OCC. This assures that the issuers will not be subject to duplicative requests for data.

POSEY 13.

Does the GLBA privacy policy notification requirement obligate financial institutions to inform their customers that information about them is being furnished to the CFPB? Do consumers have a right to “opt out” of such information sharing? The GLBA notice and opt out standards do not apply to information furnished to Federal functional regulators “to the extent specifically permitted or required under other provisions of law”.

Response

Please see response to question 10.

POSEY 14.

Section 2012 of Dodd Frank requires the Bureau to enforce Federal consumer financial law “consistently” to promote markets that are “competitive.” Isn’t the creation of a database consisting solely of information obtained from larger institutions inconsistent with these requirements? What is the basis for collecting data only from a limited number of institutions? What has the Bureau done to evaluate the competitive implications of limiting its data collection to certain institutions?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau’s (Bureau) credit card data collection activity is being conducted in coordination with the prudential regulators to ensure that the same data elements are being requested and that all large issuers are subject to a consistent requirement to provide account level data. The data collected represent approximately 85-90% of outstanding card balances. The issuers from whom the data is being collected are the largest credit card issuers and thus have particularly significant potential to create risks to consumers.

POSEY 15.

Has the Bureau sought or obtained OMB clearance for the establishment of the loan level database? If not, why not?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a

description of this activity. The Consumer Financial Protection Bureau has determined that the Paperwork Reduction Act is not applicable to this collection of data.

POSEY 16.

Has the Bureau complied with provisions of the Privacy Act such as obtaining public comment about the proposed creation of a “system of records”? If not, why not?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. When required by the Privacy Act, the Consumer Financial Protection Bureau publishes System of Records Notices in the Federal Register for public comment. Also as required by the Privacy Act, the Bureau forwards copies of SORNs to the House of Representatives Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget.

POSEY 17.

Is information in the database exempt from Freedom of Information Act requests?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. Loan-level data that the Consumer Financial Protection Bureau obtains pursuant to its supervisory authority is exempt from public disclosure pursuant to Exemption 8 of the Freedom of Information Act, 5 U.S.C. § 552(b)(8). To the extent that such data consists of trade secrets or confidential commercial information, it is also exempt from public disclosure pursuant to Exemption 4 of the FOIA.

POSEY 18.

How does the information collected by the Bureau differ from information collected from the same institutions by other regulators (e.g., OCC, FDIC, Federal Reserve, Office of Financial research)? To the extent it is the same, why has the Bureau decided not to obtain the information from the other regulators? Explain why the Dodd Frank Section 1025 requirement for “coordination” with prudential regulators to “minimize regulatory burden” do not apply to the loan level database.

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity. The Consumer Financial Protection Bureau is coordinating with the prudential regulators to ensure that the same data elements are being requested from all institutions from which data is being obtained on a consistent basis, and also to ensure that no institution is being required to provide the same data to multiple regulators.

POSEY 19.

Will members of the public have access to the information maintained about them by the Bureau? Is there a mechanism for correcting errors that consumers bring to the Bureau's attention?

Response

Your December 21, 2012 letter inquired about a “loan level data’ project . . . to collect information on consumer credit card accounts.” Please see the response to question 1 for a description of this activity.

In general, where the Bureau collects information that is retrieved by a personal identifier and maintained in a SORN under the Privacy Act, individuals may request access to, amend, and correct records that pertain to them by submitting a request in writing in accordance with instructions appearing in Title 12 part 1070 of the Code of Federal Regulations, “Disclosure of Records and Information.” Information in the credit card database does not contain direct or personal identifiers and cannot be obtained by reference to direct or personal identifiers.