

By electronic delivery

Mr. Gary Kuiper
Counsel
Legal Division
Federal Deposit Insurance Corporation
550 17th Street NW
Washington DC 20429

March 7, 2016

Re: Proposed information collection
FDIC small business lending survey; Comment request.
[81 Federal Register 6261](#), February 5, 2016

Dear Mr. Kuiper,

The American Bankers Association (ABA)¹ appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) Paperwork Reduction Act (PRA) request for approval of its proposed "Small Business Lending Survey" (Proposed Survey).² This is the second round in the PRA comment process; ABA submitted comments to the initial draft of the Survey published on October 7, 2015 (Draft Survey).³ We appreciate the FDIC's consideration of our previous comments and the adjustments that the FDIC has made to the Proposed Survey.

The Proposed Survey is intended to "provide important data to complement existing sources of data on small business lending."⁴ In addition, the FDIC proposes to include questions related to consumer bank accounts pursuant to Section 7 of the Federal Deposit Insurance Reform Conforming Amendments Act of 2005. That statute requires the FDIC to conduct ongoing surveys "on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution into the conventional finance system."⁵

The consumer account-focused questions are intended to provide a "factual basis for examining identification issues and transaction costs related to establishing mainstream transaction accounts at

¹ The American Bankers Association is the voice of the nation's \$16 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$12 trillion in deposits and extend more than \$8 trillion in loans.

² [Comment Request Re FDIC Small Business Lending Survey](#), 81 Fed. Reg. 6261.

³ See Letter from American Bankers Association, to Monica Jackson, Office of the Executive Secretary at the Bureau of Consumer Financial Protection, Aug. 31, 2015, *available at* <http://www.aba.com/Advocacy/commentletters/Documents/cl-SmBusLendingSurvey2015.pdf>; See also, [Proposed information collection FDIC small business lending survey](#), 80 Fed. Reg. 60678.

⁴ Fed. Reg., *supra* note 3, at 60679.

⁵ *Id.*

banks.”⁶ ABA supports this important inquiry and offers the following additional comments to the consumer bank account questions of the Proposed Survey.

Question 52 of the Draft Survey asked a general question about overdraft coverage: “Does your most basic or entry-level consumer checking account offer automated overdraft coverage?” A footnote explained that “automated overdraft programs” typically rely on computerized decision-making and use pre-established criteria to pay or return specific items, and that there is little or no discretion given to bank employees with respect to an individual customer or item.

This question has been replaced by question 31 of the proposed Survey to read:

What is your bank’s general policy for handling overdrafts on your bank’s most basic, entry-level checking account?

- a. Overdrafts are generally covered based on pre-established criteria with little discretion from bank personnel
- b. Overdrafts are generally covered on a case-by-case basis at the discretion of bank personnel
- c. Overdrafts are generally not covered

We believe that the revised question is an improvement. However, to make it clearer, we suggest that after the question the FDIC insert, “[Exclude debit card overdraft services subject to opt-in.]” Some respondents may hesitate to say that overdrafts are “generally covered” if the bank does not offer a debit card overdraft program or only covers debit card overdrafts if the customer opts in. The clarification will ensure more accurate results.

A new Question 39 has been added at the beginning of the applicant screening process section:

Does your bank use information on checking and savings accounts from specialty consumer reporting agencies (such as ChexSystems or Early Warning Services) to screen applicants for a basic-entry-level consumer checking account?

- a. Yes
- b. No

ABA supports the addition of this question, as it will help avoid confusion between applicant screening through use of specialty consumer reporting agencies focused on deposit accounts and applicant screening through use of credit reports, which are addressed later in the survey. However, the FDIC should understand when analyzing the results of the Proposed Survey that, some banks answering “yes” may obtain reports on *some* applicants, but *not all*.

Question 40 in the Proposed Survey is a slightly revised Question 60 of the Draft Survey. The survey now asks, “Would an applicant be eligible to open a basic, entry level consumer checking account if the applicant screening process indicated that there was a prior account closure for account

⁶ *Id.*

mismanagement (not fraud), resulting in an outstanding loss in the last 12 months of less than \$100 at another bank?” The parenthetical phrase “not fraud” has been added.

Previously, the answer options were only “yes” and “no.” ABA recommended that the FDIC add a follow-up question inquiring whether the bank offers an alternative account, such as a prepaid card or limited service checking account, to those ineligible for the standard account. We support the changes that are now shown in Question 40, which reads:

- a. Yes, the applicant is eligible to open a basic, entry level checking account
- b. No, however the applicant is eligible to open a second-chance account or an account with more limited features
- c. No, the applicant would not be able to open any consumer checking accounts

Given that prepaid cards are a common alternative to full-service checking accounts, and only recently recommended by the Director of the Bureau of Consumer Financial Protection, Richard Cordray, as an appropriate alternative to a full-service checking account,⁷ we recommend that the response include a specific reference to “prepaid accounts” in answer option b. The clarification will ensure that the prepaid card option is reflected as part of the “efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution into the conventional finance system,”⁸ the FDIC’s goal pursuant to its statutory mandate.

In addition, in our earlier letter, we recommended that the FDIC offer the answer option, “It depends,” to this question in order to reflect bank practices of not automatically rejecting an applicant due to a negative report, but opening the account under certain circumstances. For example, banks often open the account following the applicant’s explanation of the negative report or the repayment of the prior delinquency. Other account screening criteria might also override a negative report so that the account is opened. The revised responses do not capture these important practices, that are important because they reflect the “efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution into the conventional finance system.” Failing to capture these practices will result in an inaccurate or incomplete picture of consumer experience and bank efforts to offer applicants a second chance.

Accordingly, we recommend that the final Survey add the text in italics below:

- a. Yes, the applicant is eligible to open a basic, entry level checking account
- b. *Yes, but only under certain circumstances. Explain (Optional)*
- c. No, however the applicant is eligible to open a second-chance account or an account with more limited features, *such as a prepaid card*

⁷ See February 3, 2016 [letter](#) from Director Richard Cordray to select bank chief operating officers and February 3, 2016 [press release](#) of the Bureau of Consumer Financial Protection.

⁸ 12 U.S.C. § 1831z.

- d. No, the applicant would not be able to open any consumer checking accounts

Adding this option and the opportunity to provide more detail will give the FDIC richer, fuller information and better achieve its goal to obtain information about bank efforts to open accounts for people without bank accounts.

Question 64 of the Draft Survey asked, “Would an applicant be eligible to open a basic, entry level consumer checking account if the applicant screening process indicated that the applicant had a *negative credit history*?” Response options were “yes” or “no.” (Emphasis added.)

The question has been revised in Proposed Survey Question 43, which asks whether an applicant would be eligible for an account if the applicant screening process indicated that “*the applicant was current on all accounts but had non-medical charge offs or judgments of less than \$100 within the past 12 months?*” (Emphasis added.) The answer options are the same as proposed Question 40:

- a. Yes, the applicant is eligible to open a basic, entry level checking account
- b. No, however the applicant is eligible to open a second-chance account or an account with more limited features
- c. No, the applicant would not be able to open any consumer checking accounts

Consistent with our recommendation to Question 40, we recommend that the response options include a response, “Yes, but only under certain circumstances” to reflect common practices of using the reports as a screen that allows exceptions. We also recommend that the responses specifically add prepaid cards as an example of an alternative account for the same reasons we recommend such option be added in the responses to Question 40.

We appreciate the opportunity to comment on this important matter and are happy to provide any further information.

Sincerely,



Nessa Feddis
Senior Vice President and Deputy Chief Counsel