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April 25, 2008

Ms. Leneta Gregorie
Legal Division
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429

Re: Alliance for Economic Inclusion Occasional Qualitative Surveys
73 FR 10030 (February 25, 2008)

Dear Ms. Gregorie,

The American Bankers Association (ABA)[1] is pleased to comment on the Federal Deposit Insurance Corporation's (FDIC) proposed information collection[2] that would authorize the conduct of an unspecified number of occasional qualitative surveys to support efforts by the Alliance for Economic Inclusion (AEI)[3] in its programs to expand the use of the banking system by low- and moderate-income individuals and families. The proposed information collection would consist of surveys about banks' financial literacy education, asset building programs, retail banking services, and alternative financial services delivery channels. The surveys would be developed by local AEI coalitions. Survey respondents would typically include AEI coalition member financial institutions but may include non-AEI member financial institutions in regional areas served by AEI.

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[1] The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than $125 million in assets – represent over 95 percent of the industry's $12.7 trillion in assets and employ over 2 million men and women.

[2] 73 Fed. Reg 10030 (Feb. 25, 2008).

[3] The AEI is a national initiative sponsored by—but not part of—the FDIC to establish coalitions of financial institutions, community-based organizations, state and local governmental agencies, federal regulators, researchers, and other partners to bring all unbanked and underserved populations into the financial mainstream. The AEI focuses on expanding retail financial services for underserved populations, including savings accounts, affordable remittance products, small-dollar loan programs, targeted financial education programs, alternative delivery channels and other asset-building programs. There are nine AEI coalitions across the country. Each regional AEI coalition has formed a working group to identify barriers and opportunities to bring more people into the financial mainstream.

I. ABA Position

The ABA and its member banks strongly support initiatives that help banks meet the financial needs of their customers and their communities. Products and services that are provided on a sustainable basis are the bread and butter of how banks serve their customers. Thus, we continue to be eager to develop effective ways to bring more people into the financial mainstream. We also support efforts to learn more about the cultural, social, regulatory, and other barriers that may discourage people from using the products and services that banks and savings associations provide.

While we strongly support efforts to bring more people into the financial mainstream, we believe that the proposed information collection program will do little to promote that goal and that it unintentionally contains some elements are deeply troubling to the banking industry and are inconsistent with the purpose and integrity of the federal deposit insurance system. For the following reasons, we request that the FDIC withdraw the proposed information collection.

- First, we understand that it has always been a cardinal rule with the FDIC that it not allow itself to be involved in anything that could appear to yield its reputation or authority to a non-governmental exercise.[4] However, if the FDIC were to formally sponsor the proposed information collection, the AEI coalition will effectively obtain the benefits of the FDIC's imprimatur without the burden of having to balance the many concerns that policymakers must consider when engaging in regulatory or governmental activity. The data from the surveys would be for the information and use of the sponsoring AEI coalition, not the FDIC. In addition, the FDIC is requesting blanket authority for surveys that will be developed by AEI coalitions in the future, and it is unclear how due process controls would apply to the questions that would be asked or how the data are to be used or handled. It is also unclear what the coalitions intend to do with the survey data that they compile. However, if the coalitions feel a need to collect the information, they should conduct the surveys themselves and not wrap themselves in the cloak (and implied authority) of the federal government. **We believe that implementation of this proposal would either be a direct violation of rules governing the collection of data by federal agencies, or a circumvention of those rules, and must not be allowed to proceed.**

- Second, the proposed surveys would be directed solely at the efforts of depository institutions to reach people who do not have bank accounts, rather than consulting with these people regarding what factors keep them from establishing a bank account. We suggest that it is putting the cart before the horse to ask banks how they are solving a problem without consulting the people themselves whose actions—or inaction—are in effect the puzzle we are all seeking to solve.

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[4] That includes deposit insurance. The FDIC has throughout its history been careful to emphasize that its insurance extends to federally insured deposits and not to the activities of the bank where the deposits are held.

- Third, the proposed AEI information collection would replicate other initiatives that are underway at the FDIC to study ways to help individuals establish accounts with depository institutions. Thus, the proposed collections are redundant.

- Fourth, there is a significant aggregate burden arising from what appears to be a trend toward recurring collections of information from depository institutions about their marketing efforts. Collectively, depository institutions will spend thousands of hours responding to other FDIC initiatives regarding customer outreach. The FDIC should not add to this burden by distributing the proposed survey or additional surveys crafted by private-sector groups.

II. Background

A. FDIC Initiatives

The FDIC has been a leader in encouraging depository institutions to provide financial education programs in their communities and to develop banking relationships with an ever-widening circle of customers. The FDIC's request for a generic information collection is just one example of the FDIC's efforts to learn more about how banks provide financial services to low- and moderate-income individuals and families. The FDIC has three additional projects underway that pertain to the provision of financial products to individuals with little or no banking relationships.

First, in late 2007, the FDIC, in conjunction with 30 participating depository institutions, launched a pilot program to study the feasibility and profitability of formal, small-dollar loan programs.[5] The purpose of the pilot program is to identify effective and replicable business practices to help banks incorporate affordable small-dollar loans into other, mainstream banking services. In May 2008, the FDIC will begin a series of information collections about each institution's experience with its trial small-dollar lending program. The FDIC will use this information collection to identify best practices for providing small-dollar loans.[6]

Second, in April 2008, the FDIC kicked off its first nationwide survey of banks' efforts to bring more people into the financial mainstream. This information collection, titled *Survey of Banks' Efforts to Serve the Unbanked and Underbanked* (the Unbanked Survey), will gather data on how insured depository institutions are meeting the financial services needs of persons within their communities who have little or no formal account relationships with insured depository institutions.[7] This survey is required by Section 7 of the Deposit Insurance Reform Act Conforming Amendments of 2005.[8]

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[5] The ABA worked closely with the FDIC to identify institutions that were willing to participate in the FDIC's two-year small-dollar loan pilot project. We support the pilot project as an important way to explore how to promote small-dollar lending by depository institutions.

[6] See http://www.fdic.gov/smalldollarloans/.

[7] See http://www.fdic.gov/unbankedsurveys/.

[8] The Reform Act specifically requires that the FDIC consider:

The Unbanked Survey consists of two parts. The first phase is a questionnaire that was distributed to 865 depository institutions. The questions in this survey focus on banks' financial education and outreach strategies; deposit, payment and credit products offered to entry-level customers; and other related topics. The second phase will involve case studies of 20–25 FDIC-insured institutions that have employed innovative methods to serve people who have little or no formal account relationships with insured depository institutions. The Chairman of the FDIC is required to submit to Congress a bi-annual report that contains the survey's results as well as recommendations for legislative or administrative action.

Third, the FDIC is exploring the feasibility of working with the U.S. Bureau of the Census to collect data on the numbers and demographic characteristics of households having little or no regular banking relationships, as well as the barriers such people perceive when deciding how and where to conduct financial transactions. ABA understands that this survey may be distributed to U.S. households in 2009.

B. Survey Mechanics

This additional proposed information collection would consist of occasional qualitative surveys that would be developed, not by employees of federal agencies acting in their official capacities, but by members of local AEI coalitions. The role of the FDIC would then be to lend its resources to administer the AEI survey. The FDIC does not plan to publish survey findings. Rather, all data from the surveys would be for the information and use of the AEI coalition.

The notice and request for comment regarding the proposed FDIC generic information collection does not include a list of proposed survey questions from all nine AEI coalitions across the country. Those, presumably, would be developed at some future time once this program were authorized. The notice does, however, provide for illustrative purposes, the *Proposed Survey of Retail Services in Wilmington* (the Wilmington AEI Survey). ABA understands that the generic information collection sought by the FDIC would not require each local AEI survey to be subject to public notice and comment or individual approval by the Office of Management and Budget. In addition, it is unclear how the FDIC would ensure that the handling and use of the information collected by a non-governmental organization would be subject to standards applicable to federal agencies. We fear that the opportunities for abuse, whether in the design of the

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- The extent to which insured depository institutions promote financial education and financial literacy outreach;
- The financial education efforts that appear to be the most effective in bringing unbanked individuals and families into the conventional finance system;
- The efforts of insured institutions to convert unbanked money order, wire transfer, and international remittance customers into conventional account holders;
- The cultural, language, and identification issues as well as transaction costs that appear to prevent unbanked individuals from establishing accounts; and
- An estimate of the numerical and financial size of the unbanked market in the United States.

surveys, their conduct, or in the handling and use of the information, seem to be unlimited and yet are not addressed in the proposal.

III. Role of the FDIC and Use of Survey Data

We strongly object to a survey questionnaire issued under the auspices of a federal government agency that would be generated, analyzed, and used by and for non-governmental parties. Local AEI coalitions, not the FDIC, would be the primary beneficiaries of the proposed information requests. It is troubling that the proposed surveys would be issued under the auspices of a federal banking regulator when the results of the surveys would be compiled by and for the use of a private coalition. We believe that this could be an improper use of federal authority on behalf of private—non-governmental—parties, and would be inconsistent with good government practice that separates public from private interests.

Moreover, we submit that implementation of the proposal could run afoul of federal law and regulations governing surveys issued by federal agencies and the handling and use of information so obtained. The Paperwork Reduction Act requires that an information collection by a federal agency must meet a standard of being *necessary* for the proper performance of the function of the agency—not of private parties acting more or less in sympathy with the federal agency. The FDIC's description of the information collection in the Federal Register notice does not include any discussion of why the proposed information collection is necessary in order for the FDIC to serve as the insurer of bank deposits and as a safety and soundness regulator. In addition, survey questionnaires—along with any information gathered—are subject to specific rules and procedures and limitations under law. The FDIC does not explain how the proposed surveys, which would be developed by and for the use of the sponsoring AEI coalition, would comply with these rules and procedures. Therefore, we question whether the proposed information collection would be consistent with the Paperwork Reduction Act or other relevant laws and rules.

We would add that it is unclear what local AEI coalitions might intend to do with the data that they collect. We are concerned that data, reports, or other publications and information that result from the surveys would not be objective or that they could be used to promote the interests of consumerist advocates or other similar private interest groups seeking to advance their own agenda or perspectives. Further, we are concerned that depository institutions, noting the FDIC imprimatur, could come to believe that they would be expected to adopt those practices or face regulatory criticism.

It is unclear to us why the AEI coalition needs to involve the FDIC in the surveys. Certainly the FDIC's connection lends enormous credibility to the AEI coalition's efforts, but there is no reason why the coalition cannot gather the information on its own without the complications and potential improprieties inherent in having the FDIC entangled in these surveys.

These proposed surveys are in some degree reminiscent of the rent-a-charter schemes that the FDIC and other banking regulators appropriately have cautioned banks to avoid. The counsel given in that connection would also apply here: if you don't control it and operate it, then don't lend your franchise and reputation to it. This proposed program of FDIC sponsored private-party surveys would seem to us to be an inappropriate extension of the implied persona of the federal government to private sector activity.

IV. Scope of the Surveys

The ABA is concerned that the proposed information collection would be focused primarily on the efforts of depository institutions to reach potential customers. For instance, the sample Wilmington AEI Survey would gather information about the products and services that *banks* provide to people without bank accounts or having very limited banking relationships. This approach misses the more important question of asking the people themselves what it is that keeps them from establishing bank accounts.

We reiterate our position, as stated in our January 29, 2008, comment letter[9] to the FDIC, that information about the perspective of individuals is necessary in order to understand the challenges associated with, and the hurdles that are inhibiting such individuals from, greater use of the banking system. For example, a recent GAO study suggests that cost is not necessarily the primary reason for not having an account. The January 2008 report, *Bank Fees,* (GAO-08-281) found that the number of institutions that offered free checking accounts grew to 60% in 2006 from 30% in 2001 and that the average monthly fees decreased 25% during the same period.[10] Thus, it appears that reasons other than cost are significant factors for those without bank accounts. Without understanding the factors that influence an individual's decisions, the value of data generated by survey questions about a bank's products and services may be significantly inadequate.

The economic, cultural, social, and regulatory realities of why some people choose not to have a bank account are varied and complex and cannot be simply addressed with new financial products or services. Therefore, in addition to the grounds we note above in this letter, we request that the FDIC withdraw the proposed information request and continue to work with the Census Bureau to learn more about why some segments of the population have elected not to establish a relationship with an insured depository institution. This information is necessary in order to help banks learn about what they can do to address those problems that they can solve.

V. Duplicative Nature of the Proposed Information Collection

The ABA believes that the proposed AEI information collections would in large measure replicate other initiatives to study efforts to help individuals establish

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[9] This comment letter was in response to the December 27, 2007 Federal Register notice that the FDIC had submitted its Unbanked Survey to the Office of Management and Budget for review and approval.

[10] Page 15 of the report.

bank accounts. As such, this proposed program is likely to be little more than a re-plowing of much of the ground covered by the Underbanked Study discussed above. While redundancy can be its own vice, the AEI study raises the additional problems of inappropriate confusion of private and public sector interests and could, as a result, unwisely detract from the value of the FDIC's own ongoing initiatives.

Current FDIC projects such as the Unbanked Survey, the Small-Dollar Pilot project, and the Census Bureau Study will provide the FDIC with detailed information regarding the provision of financial products and services as well as information about the factors that influence the choices of people that are not in the financial mainstream. These initiatives will yield significant information.

A comparison of the FDIC's Unbanked Survey and the sample Wilmington AEI Survey illustrates how the proposed AEI information collection would duplicate these existing initiatives. Fifteen of the nineteen questions in the Wilmington AEI Survey are the same as or substantially similar to questions in the Unbanked Survey that the FDIC released in April 2008. We do not believe that another survey that is so similar to ongoing projects would produce new information that would be helpful to financial institutions, the AEI, or the FDIC. It could, however, confuse and frustrate the very people we are calling upon to participate and provide information.

Therefore, rather than the FDIC beginning a new information collection program, we encourage the FDIC to share appropriate and relevant information from existing initiatives with local AEI coalitions. This approach would provide local AEI groups with valuable information without flooding depository institutions with requests for information that is otherwise reasonably available to the FDIC.

We are aware that depository institutions are members of various AEI coalitions. Our comments have been informed by input from ABA member banks participating in these coalitions as well as from the ABA membership more generally. The involvement of these institutions in the AEI is yet one more example of the commitment of the industry to bringing more people within the financial mainstream. However, ABA does not support moving ahead with the proposed local survey program because it is duplicative of other survey efforts, such as the FDIC's Unbanked Survey.

VI. Time and Burden to the Industry

The proposed survey is characterized as "a generic information collection to conduct occasional qualitative surveys in support of AEI initiatives." We are concerned that there will be no definite end to the collection of information under this proposed program. The proposed AEI Survey and related initiatives should not become routine collections of information from depository institutions. Aside from the problems noted above, authority should not be granted for an open-ended, indefinite series of surveys to be imposed upon the industry. Surely the spirit and purpose of the Paperwork Reduction Act envision that every survey request must be evaluated on its own merits and costs at the time it is expected to be executed. A blanket authority such as that proposed would frustrate the purposes of that Act and thwart the important review role to be played by the public and by the Office of Management and Budget to limit unnecessary paperwork and regulatory burdens.

Collectively, banks will spend thousands of hours responding to questions from the FDIC (including both the Unbanked Survey and the proposed AEI surveys) regarding their efforts. The distribution of an additional information request could cause institutions to develop a case of “survey fatigue.” Financial institutions are experiencing a challenging economic environment at a time when regulatory burden is already at excessive levels and growing. Banks that receive both the Unbanked Survey and the proposed AEI surveys may not view favorably the receipt of multiple surveys from the FDIC on substantially the same subject. Even if the FDIC were to ensure that no bank were asked to participate in more than one of the initiatives discussed above, the collective burden on the industry and the diminishing marginal utility of yet another survey asking much the same thing would argue in favor of withdrawing the proposed AEI survey program.

Even though recipients would not be required to respond to either the Unbanked Survey or the proposed AEI survey, many institutions will feel obligated to complete and return the questionnaires. This may not be the FDIC’s intent; however, it is one of the realities of the relationship between banks and regulators inside of a prudential regulatory structure. Therefore, we request that the FDIC work to reduce the demands on the industry by withdrawing the proposed AEI information collection.

VII. Conclusion

Thank you for the opportunity to comment on the FDIC’s proposed information collection. We reiterate our appreciation and support of the FDIC and those individuals that work hard to bring ever more people into the financial mainstream where they can receive the benefits of useful financial products and services. However, we must firmly object to the confusion of public and private interests that the proposal would entail. The FDIC must reserve its imprimatur solely for activities conducted by and for the FDIC in fulfillment of its statutory role and not allow private parties to operate under that seal. In addition, the proposed surveys would duplicate existing FDIC initiatives, and it is doubtful that the surveys would generate new data or information. Therefore, for each and all of these reasons, we request that the FDIC withdraw the proposed generic information request.

Please contact the undersigned at 202-663-5547 or kshonk@aba.com should you have any questions about our comments.

Sincerely,

Krista Shonk