American Bankers Association
Building Success. Together.

Nessa Feddis
Senior Vice President and Deputy Chief Counsel
Center for Regulatory Compliance
Phone: 202-663-5433
E-mail: nfeddis@aba.com

December 7, 2015

By electronic delivery

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

Re: Proposed information collection FDIC small business lending survey; Comment request. 80 *Federal Register* 60678, October 7, 2015

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 request for approval of its proposed "Small Business Lending Survey (Survey)."[2] The Survey is intended to "yield heretofore unavailable nationally-representative estimates on the volume and details of small business loans extended by FDIC-insured banks." It is intended to "provide new information on banks' perceived competition and market area for small business lending." 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." 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 banks. Our comments will focus on the consumer bank account questions of the Survey.

Separate Surveys. We recommend that the FDIC separate the small business lending questions from the consumer bank account questions to create two separate surveys in order to encourage participation and more accurate results. The FDIC has combined the small business lending questions with the consumer bank account Survey questions "to reduce the burden on banks relative to fielding two separate surveys." ABA does not agree that a single survey about two completely different customer and product types that must be reviewed by two different departments is less burdensome than two separate surveys that are more likely to be directed to the appropriate department. Further, we believe that, as the last section in a survey entitled "Small Business Lending Survey," the questions on consumer bank accounts are likely to be overlooked until late into the review process, resulting in their not being completed or being completed by those unfamiliar with the consumer bank account products.

---

1 The ABA is the voice of the nation's $15 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $11 trillion in deposits and extend more than $8 trillion in loans.

2 80 Fed. Reg. 60678 (October 7, 2015).

The Survey is entitled “Small Business Lending Survey;” therefore, it will be directed to the small business lending department of the bank. “Small Business Lending Survey” is not only the title of the Survey, it is also the heading of all the pages in the Survey, including those containing the consumer bank account section. Thus, there is no reason to suspect it contains anything other than questions related to small business lending, let alone questions about a completely different customer type as well as product type. Moreover, the “Access to Retail Bank Services” heading for the consumer bank account section does not readily convey that the questions address consumer bank accounts. Thus, bank staff in the small business lending department, to whom the Survey will logically be directed, are not likely to realize that it includes questions about consumer bank accounts until well into their response. Alternatively – and even more problematic – the small business lending department may respond to the questions, increasing the likelihood of inaccurate responses because they were not completed by the bank officers most knowledgeable about consumer bank accounts. To encourage completion of these questions and accurate responses, on behalf of our member banks, we recommend that the FDIC divide the Survey into two separate surveys.

We also suggest that the FDIC explain more accurately the goal of the consumer bank account questions. In introducing the consumer bank account section, the Survey states that the Survey includes consumer bank account questions because, “Often, consumers become small business owners and approach the banks with which they already have consumer relationships when they seek small business loans. Because of this, in this section, we ask about the retail services that your bank offers to consumers.” The explanation is confusing and unpersuasive. The FDIC should instead explain, as it points out in the *Federal Register* request for comment, that the purpose of these questions is to learn about “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 a conventional finance system” and to “provide a factual basis for examining identification issues and transaction costs related to establishing mainstream transaction accounts at banks.” There is no reason to obscure the purpose and every reason to make the purpose clear. The FDIC is more likely to obtain responses and accurate responses if participants understand the context.

Question 49. Question 49 asks about “network branded general purpose reloadable prepaid cards” offered and issued by the bank. That term, however, is not defined and could be interpreted by respondents to refer to a wide range of accounts, including those that are fundamentally checking accounts. The term “prepaid card,” can be understood to identify a broad range of accounts, from those that are only accessible through use of the card or card number[3] to accounts that allow access through all common channels. This would include, for example, “checkless” checking accounts, such as the FDIC’s “Model Safe Account,”[4] as they

3 This definition is used by card payment networks and Regulation II (regulation of debit card interchange fees).

4 Under the Model Safe Account Template, core features include “online and mobile banking/bill pay, check cashing and ‘auxiliary service and fees,’” lines of credit, and small-dollar loans (less than $2500). “Safe Accounts are checkless, card-based electronic accounts that allow withdrawals only through automated teller machines, point-of-sale terminals, automated clearinghouse preauthorizations, and other automated means.” FDIC Model Safe Accounts Pilot Final Report, (April 2012) *available at* https://www.fdic.gov/consumers/template/template.pdf.

offer online bill pay and ACH debits, though no check-writing. Some definitions of general purpose reloadable prepaid cards even envision check-writing features.[5] The lack of a clear definition will produce unreliable data.

If the purpose of the proposal is to identify the universe of alternatives to full-service checking accounts offered by insured depository institutions, the FDIC should rephrase the question to ask whether the bank offers "limited service accounts" that do not allow check-writing, including prepaid accounts or "Safe Accounts" such as those resembling the FDIC Model Safe Account. This would avoid having to define precisely prepaid accounts, but it would provide data on the availability of alternatives to full-service checking accounts.

Questions 60 and 61. Questions 60 and 61 ask about banks' applicant screening processes for opening a basic, entry-level consumer checking account. Question 60 asks whether an applicant is eligible to open a basic, entry level consumer checking account if the screening process shows a prior account closure due to mismanagement, resulting in a loss of less than $100 at another bank. Question 61 asks whether the bank would open such an account if the applicant screening process indicated applicant fraud on a prior account. Only "yes" and "no" are offered as responses. We recommend that the Survey permit, "It depends," as an answer option.

Applicant screening processes are more nuanced and flexible than the questions reflect. For example, banks often consider the applicant's particular circumstances and any account history explanations. In addition, some banks will open the account if the applicant pays the delinquent account balance at the prior bank. In these circumstances, the bank may be inclined not to respond if the only answer options are yes and no. An option of, "It depends," will encourage Survey responses to these questions and help to capture an important element of the account screening process.

We also suggest that the Survey include a follow-up question asking whether the bank offers an alternative account, such as a general purpose reloadable prepaid card or a limited service checking account similar to the FDIC's "Model Safe Account," to those ineligible for the standard account. The question will provide important information about efforts to provide those without bank accounts with access to conventional financial services.

Additional comments about understanding the needs and preferences of the unbanked. As noted above, the Survey seeks to develop data 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 of check cashing account at an insured depository institution into a conventional finance system" and to "provide a factual basis for examining identification issues and transaction costs related to establishing mainstream transaction accounts at banks." Accordingly, ABA believes that as it develops the Survey, the

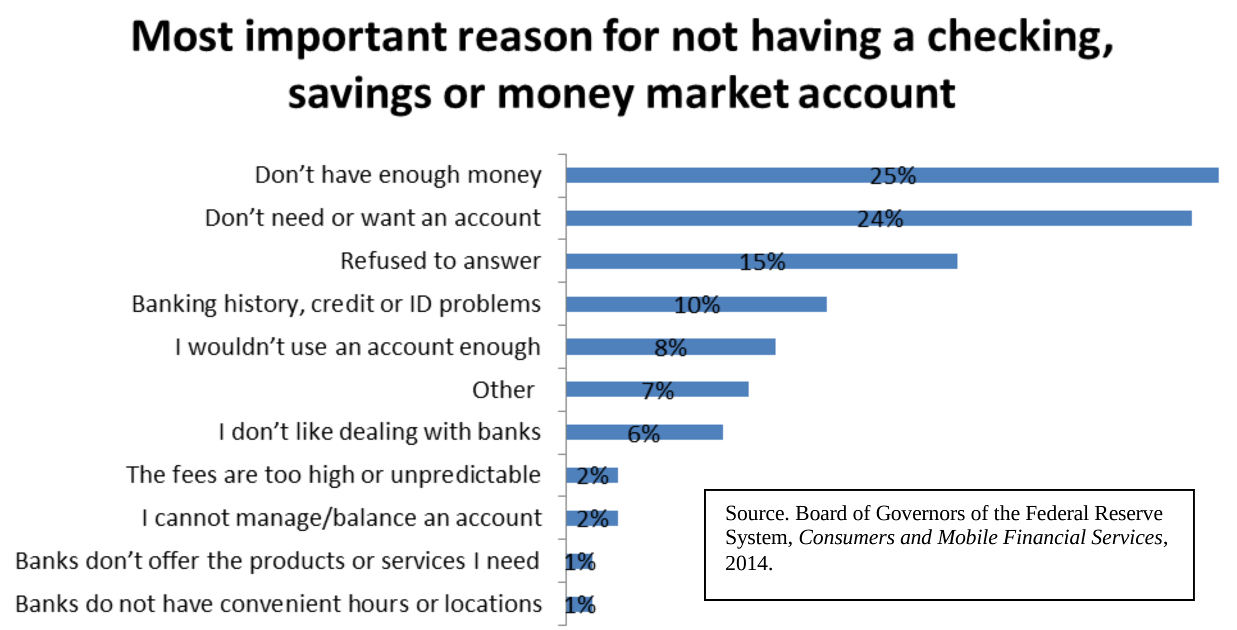
---

[5] *See* Bureau of Consumer Financial Protection proposal to amend Regulation E related to prepaid cards. The proposed model disclosures and the supplementary information to the proposal suggest that certain accounts offer "online bill pay or online bill pay by check that some might consider to be checking account could be considered prepaid accounts. For example, the model A-10(e)—Sample Form for Long Form Disclosures for Prepaid Accounts, lists as a "fee" a fee for "online bill pay service by check." 79 Fed. Reg.77101, 77106 (December 23, 2014). Similarly, the Bureau notes that "some [General Purpose Reloadable (GPR)] card programs have started to offer checking account-like features such as *check-writing* using pre-authorized checks, the ability to send direct deposits via an ACH to the GPR, and in some limited cases, the ability of third parties to *debit…the GPR card account via ACH."*[5] (Emphasis added.) 79 Fed. Reg. at 77106.

FDIC should be mindful of the reasons people do not engage, or only partially engage, with the banking system. This information will help identify additional questions that explore the full range of reasons why people do not have bank accounts.

The Survey focuses on the cost of bank accounts and whether banks will open an account for someone who has previously mismanaged an account. However, according to a number of studies, including those from the FDIC and Federal Reserve Board, cost and past account mismanagement are not the primary reasons that people do not have accounts. Rather, the primary reasons for not having an account are not having enough money or not wanting or needing an account.

The FDIC has found that 58.8 percent of the never-banked households and 48.8 percent of the previously banked unbanked households did not have an account because they "do not have enough money" or "do not need or want an account.[6] As shown in the table below, the Federal Reserve Board found that only two percent of those without bank accounts did not have an account due to high or unpredictable fees and only two percent did not have one because they cannot manage or balance an account. Ten percent did not have an account because of identification, banking history, or credit problems. For almost 50 percent, the reason for not having an account was that they do not have enough money or do not need or want an account.[7]



Source. Board of Governors of the Federal Reserve System, *Consumers and Mobile Financial Services*, 2014.

The complexity of the reasons for not having bank accounts is illustrated by the fact that free accounts with quick availability to deposits, including those available through branches in low-income areas, have met limited success. This includes the Treasury Department's "First

6 Federal Deposit Insurance Corporation (FDIC), "2011 FDIC National Survey of Unbanked and Underbanked Households," September 2012, p. 26-27. Among the never-banked households and previously banked unbanked households, the most common reason for not have an account was "do not have enough money." (32.8 percent and 33.2 percent respectively.) "Do not need or want an account" was the second most common reason. (26.0 percent for the never-banked, 15.6 percent for the previously banked unbanked.)

7 Board of Governors of the Federal Reserve System, "Consumers and Mobile Financial Services 2014," March 2014 p.5.

Account," a free account available through several major banks beginning in 2002.[8] While banks have made efforts to offer simpler, free accounts and to give second chances to those who have mismanaged accounts in the past, these solutions solve the problem for only a minority of people who do not have bank accounts.

The FDIC should conduct research to understand better the reasons the majority of unbanked do not want or do not believe they need an account. For example, many find intrusive and unwelcoming the "know your customer" legal procedures, including the identification documentation and the source of deposit identification requirements, as well as the amount of time and procedure these requirements impose at account opening. Some may not want an account because they do not want transactions, including income or assets, tracked or accessible by others, e.g., family members, business parties, the government or courts, and believe the government has greater access to bank customers' accounts than to the information of nonbank financial providers.

In addition, the FDIC should recognize that other regulations may derail potential solutions. For example, prepaid cards that offer a simple, safe account, may be thwarted by pending amendments to Regulation E, which implements the Electronic Fund Transfer Act. Addressing these regulatory barriers would help to encourage development of products that may encourage greater participation within the banking system, a goal that we share with the FDIC.

ABA appreciates the opportunity to comment on the FDIC's proposed survey. We are happy to provide additional comments.

Sincerely,

Nessa E. Feddis

Nessa Feddis
Senior Vice President and Deputy Chief Counsel

8 U.S. Department of the Treasury, *Findings from the First Accounts Program*, available at: https://www.treasury.gov/resource-center/financial-education/Documents/ExecutiveSummary_FirstAccounts_1-9-09.pdf