Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502
This comment is respectfully submitted by:

William W. Keep
Dean, School of Business
The College of New Jersey

John Breyault
Vice President of Public Policy, Telecommunications & Fraud
National Consumers League

Peter J. Vander Nat
DOJ/SEC Consultant

Sampling
As part of the sampling process please consider recent research (link blow) regarding the fact that "almost half of Americans have a cellphone but no landline telephone service, more surveys are including interviews with people on their cellphones. For certain subgroups, such as young adults, Hispanics and African Americans, the cell only rate is even higher." While cellphone surveys are more expensive they may be a necessary component to obtain an accurate read on the experience of certain populations.
http://www.pewresearch.org/methodology/u-s-survey-research/collecting-survey-data/

Confidence Intervals in Plain Language
When reporting results, please describe confidence intervals in plain language. It is important that readers understand the equal likelihood throughout the confidence interval of any particular number representing the "true" number of fraud victims. Further, it should be made clear that large confidence intervals (i.e., small "N" for analysis of specific fraud types) could prevent statistical significance when comparing one survey with another. Without such clarification, the reader may extract meaning that is not supported by the data. For example, below are links to two versions of a Stanford report on fraud. The first states that the incidence of pyramid schemes has declined while the revised report (a change made after the Stanford author was contacted by Dr. Keep) notes the lack of statistical significance in finding any change over time. Both versions can be found on the Internet. More initial clarity will help prevent a misreading of whether a change over time has occurred.

http://longevity3.stanford.edu/wp-content/uploads/2014/05/Scope-of-the-Problem-FINAL_corrected2.pdf

http://fraudresearchcenter.org/wp-content/uploads/2016/04/Scope-of-the-Problem-FINAL_corrected2.pdf

Comparisons Across Surveys That May Use Different Definitions of Terms
Provide a clear description of what can and cannot be compared across FTC surveys. For

example, the 2007 FTC Fraud Survey (data collected in 2005) contains a change in the definition of a pyramid scheme victim. The change is fully described and the report notes that in the absence of the change there would be essentially no difference in the reported incidence of pyramid scheme victims relative to the 2004 survey. The 2011 FTC Fraud survey uses the 2007 definition but makes no such statement relative to the 2004 data. Readers of the 2011 and 2004 surveys only would draw a different conclusion about change over time than would readers of the 2007 and 2004 surveys only.

Definition of Pyramid Scheme and Pyramid Scheme Victim

Starting with the 2004 FTC Fraud Survey, the definition of a pyramid scheme victim contains language that lacks apparent connection with FTC pyramid scheme actions and relevant court decisions. The subsequent change in pyramid scheme victim definition in the 2007 FTC Fraud Survey (data collected in 2005), which effectively reduced the apparent incidence in pyramid scheme victims by half, also has no apparent basis in public FTC pyramid scheme actions or relevant court decisions.

There is little evidence that companies accused by the FTC of operating a pyramid scheme "promise" a result or that participants will "earn a certain amount of money." Pyramid scheme companies are often careful not to make such readily objectionable claims. Yet the surveys state: "Participants who purchased membership in a pyramid scheme and who said that they had earned as much money as had been promised are not counted as victims." (2004 Fraud Survey); "In both surveys, participants who indicated that they had purchased either a pyramid scheme or a business opportunity were then asked whether they had been led to believe that they would earn a certain amount of money or profit from the business (2005 Survey Question 35.1; 2003 Survey Question 35)" (published as 2007 Fraud Survey); "Those who indicated that the income was to come from recruitment were then asked whether they had been led to believe that they would earn a certain amount of money from the business, and if so, how much they had actually earned, relative to what had been promised (Questions 35.1 and 35.2)." (2011 Fraud Survey). Uniform use of language of *led to believe* is likely more accurate than *promised*, and thus helps a respondent avoid the dilemma of whether he/she was *promised* a certain amount.

While not an easy task, we recommend the following plain language description of a pyramid scheme and a pyramid scheme victim (consistent with FTC pyramid scheme actions and court decisions):

"A pyramid scheme is a recruitment-based money transfer venture presented as an income opportunity. Lured by evidence of the financial success of a few, recruits pay fees and/or make ongoing product purchases to become eligible for rewards. The scheme's terms for obtaining rewards and ongoing pursuit of recruits ensure that typically ninety percent or more of all participants will fail to earn rewards equal to or greater than their cost to participate."

"You are a pyramid scheme victim if you participated in such a venture and failed to earn income equal to or greater than your cost of participation."

(A sampling methodology could test this approach relative to the previous approach.)

Victim Complaint Behavior

Complaint behavior has played an important role in triggering FTC action. Yet, the complaint behavior of fraud victims was discontinued after 2004. We view the decision to no longer collect and report data on complaint behavior as limiting the understanding of the actual incidence of fraud as reflected in apparent complaint behavior. We encourage the FTC to again collect and report complaint behavior data.