

June 1, 2018

Comment Intake
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, DC 20552

Re: *Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information (Docket No. CFPB-2018-0006)*

To Whom It May Concern:

The American Financial Services Association (AFSA)¹ appreciates the opportunity to comment on the Bureau of Consumer Financial Protection's notice and request for information (RFI) regarding consumer complaint reporting practices. We understand that the Bureau is looking for information to assist it in assessing potential changes that can be implemented to its public reporting practices of consumer complaint information.

AFSA appreciates the effort the Bureau has made to engage with members of the public, consumer advocates, and industry representatives. Our letter expresses the views of our member companies that the Bureau should cease consumer complaint reporting beyond the specific reporting activities mandated under federal law, and proposes other commonsense changes in the collection and dissemination of such information.

I. The Bureau Should Limit its Consumer Complaint Reporting to Reports Specifically Required under Federal Law

The Bureau should only prepare and publish reports on consumer complaints that are mandated under federal law. All other publication of consumer complaint information, including publication of consumer complaints on the Bureau's Consumer Complaint Database, should be discontinued.

In the Bureau's five year Strategic Plan released on February 12, 2018, Acting Director Mulvaney wrote "If there is one way to summarize the strategic changes occurring at the Bureau, it is this: we have committed to fulfill the Bureau's statutory responsibilities, but go no further."²

Federal law requires the Bureau provide reports of consumer complaint information in limited circumstances. First, it must report to Congress annually information about consumer complaint numbers, complaint types, and, where applicable, information about resolution of complaints.³ Second, the Bureau is to report semi-annually to the President and certain Congressional committees an analysis of complaints about consumer financial products or services that the Bureau has received during the previous year.⁴

¹ Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

² Bureau of Consumer Financial Protection Strategic Plan FY 2018 – 2022, accessed at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_strategic-plan_fy2018-fy2022.pdf

³ 12 U.S.C. § 5493(b)(3)(C).

⁴ 12 U.S.C. § 5496(c)(4).

As described in the RFI, the Bureau has adopted a practice of issuing additional reports relating to consumer complaints that go well beyond the requirements of Congress. These reports include listings of “most-complained-about” companies and aggregations of complaint information by specific population groups. The Bureau also publishes information from the Consumer Complaint Database subject to certain quality control steps. The Consumer Complaint Database information contains narratives written by consumers. These narratives are accounts that express consumer concerns and frustrations, frequently including allegations that lenders have violated the law or otherwise acted improperly. While many of the complaints are legitimate, the open and public nature of the consumer complaint portal allows misuse, and the complaint submissions cannot be reliably verified for accuracy.

While the Bureau under former leadership decided that issuing such additional reports was helpful, AFSA respectfully suggests that the Bureau prepare and deliver consumer complaint reporting that is mandated under the statutes, but go no further and not become a sounding board for consumers’ individual complaints about covered persons. Despite the Bureau’s efforts to perform limited validation of consumer complaints, the past practice of publishing consumer complaints invites trivial and false complaints to commingle with legitimate complaints. Goodwill and reputation are not easily achieved, but can quickly be tarnished. The presence of unverified complaints harms consumers by diverting attention away from investigation of and response to verified, fact-based complaints. The publication of raw complaint narratives publicly subjects companies to potentially long-lasting, inaccurate and unfair criticism that is often subjective and potentially misleading without institutional proprietary context or facts. As such, this information may actually misinform consumers, completely contrary to the Bureau’s mission. There are publicly available sites for criticism of covered institutions but the Bureau, a creature of the federal government, ventures outside its mandate when it becomes one of them.

In the absence of a statutory obligation to publish consumer complaint data and in light of the obvious harm to companies that such publications cause, AFSA requests that the Bureau discontinue publishing consumer complaints and other reports that are not required under federal law.

II. Consumer Complaint Reporting on the Consumer Complaint Database

While AFSA member companies urge the Bureau to cease publishing the Consumer Complaint Database because its publication is not mandated under federal law, to the extent the Bureau continues such publication, AFSA offers the following suggestions.

- a. The Bureau should not publish consumer complaint narratives. These narratives are not validated for accuracy. The narratives contain unverified claims that cause reputational harm to the named companies. These narratives are allegations from consumers, not facts, though this distinction is impaired when published by a governmental agency.
- b. The “Company Response to Consumer” data field should be eliminated. The communications between a financial institution and its customer should not be published. These communications include proprietary information and private customer information that is confidential.
- c. The “Problem with credit report or credit score” data field should be configured to be applicable only to complaints against the Consumer Reporting Agencies. Complaints about credit report contents and credit scores should be directed first to the Consumer Reporting Agencies for resolution.
- d. The “Closed with explanation,” “Closed with monetary relief,” and “Closed with non-monetary relief” data fields should be replaced with the field “Closed.” The other fields are subjective and reveal aspects of a transaction between a financial institution and its customer that should not be published.

- e. The Bureau should add a data field that indicates if the Bureau considers a given complaint closed. This will assist financial institutions to determine which complaints require additional attention.
- f. The data field descriptions under “Issue” and “Sub-Issue” headings are leading, and they unfairly direct consumers to negative conclusions. Those field descriptions should be revised to be neutral (e.g., “Charged Fees & Charges.”)
- g. Prior to naming a company in any list of most-complained-about companies, the Bureau should inform the company and provide it an opportunity to respond.
- h. On the Consumer Complaint Company Portal, information indicating whether the customer has disputed the company’s response should be made more prominent. Currently, companies need to run reports in order to view this information, which is inefficient.

III. The Bureau should Cease Developing Tools for Consumer Complaint Analysis

Consistent with the Bureau’s commitment to performing only those duties mandated by federal law, the Bureau should discontinue creating tools for complaint analysis for two reasons: One, those tools likely have internal limitations and predispositions toward certain outcomes. Two, while AFSA Members have found these tools useful in benchmarking against peer companies, they should be free to construct their own complaint analysis tools. AFSA, however, prefers that the Bureau cease publishing consumer complaints thereby rendering these analytical tools unnecessary.

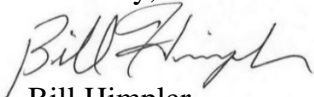
IV. Mandated Consumer Complaint Reports

In the mandated consumer complaint reports, the Bureau includes observations about individual consumer complaints or trends. In order to present a balanced view, when the Bureau includes information about a particular company in such reports, the Bureau should solicit and include any rebuttal information the company may offer.

V. Conclusion

AFSA appreciates the effort the Bureau has made to engage with members of the public, consumer advocates, and industry representatives. We hope you find our recommendations useful. Please contact me by phone, 202-466-8616, or email, bhimpler@afsamail.org, with any questions.

Sincerely,



Bill Himpler
Executive Vice President
American Financial Services Association