



April 30, 2015

The Hon. Richard Cordray  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

Dear Director Cordray,

In March, the Consumer Financial Protection Bureau (“CFPB” or “Bureau”) released a final policy statement (“Final Policy Statement”) to provide guidance on how the Bureau plans to disclose publicly unstructured and unverified consumer complaint narrative data (“narratives” or “consumer narratives”) via its web-based, public-facing database (the “Consumer Complaint Database” or “Database”). Although it is a final policy statement, the CFPB invited feedback from the industry and is willing to consider making some changes. In this letter, the American Financial Services Association (“AFSA”)<sup>1</sup> expresses concerns and observations, and suggests revisions to: a) the company structured responses, and b) the Bureau’s unwillingness to notify a company when a consumer opts-in to make the narrative public.

At the outset, we want to take the opportunity to emphasize that AFSA members seriously investigate and respond to complaints. With the large number of financial transactions that our members conduct with their customers every day, intermittent mistakes can and do happen. It would be unrealistic to assume otherwise. Our members recognize this and they also understand that it is vitally important to “get it right” for the customer when an issue does arise. Simply put, customer goodwill is a cornerstone of any successful business. Without it, a business cannot survive for very long. AFSA members care about their customers and potential customers and want them to have timely, understandable, and accurate information about their consumer financial products and services. AFSA members have every incentive to respond quickly and thoroughly to all consumer complaints.

#### **A. Structured Company Responses**

The CFPB company responses, as they are currently drafted, are unnecessarily terse and do not present an accurate picture of how thoroughly companies investigate complaints and how seriously companies take their customer’s privacy.

The chart below lists the current responses next to AFSA’s suggested revisions, and it requests the addition of four company responses.

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<sup>1</sup> AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. Its more than 350 members include consumer and commercial finance companies, auto finance/leasing companies, mortgage lenders, mortgage servicers, credit card issuers, industrial banks and industry suppliers.

<b>Current CFPB Company Response</b>	<b>Proposed AFSA Revisions</b>
Company believes it acted appropriately as authorized by contract or law	After completing a thorough investigation, the company determined that it acted appropriately in accordance with the contract and applicable law.
Company disputes the facts presented in the complaint <sup>2</sup>	After completing a thorough investigation, the company disputes the allegations presented in the complaint.
Company can't verify or dispute the facts in the complaint	Although the company completed a thorough investigation of the complaint, it was unable to verify the claims in the complaint because it has insufficient information about the allegation.
Company believes the complaint is the result of a misunderstanding <sup>3</sup>	After completing a thorough investigation, it appears that the complaint resulted from a misunderstanding with the customer which the company is working to resolve.
Company believes complaint relates to a discontinued policy or procedure	After a thorough investigation, it seems that the complaint relates to a discontinued policy or procedure.
Company believes complaint represents an opportunity for improvement to better serve consumers	After completing a thorough investigation, the company believes the complaint has raised a potential opportunity for improvement to better serve consumers.
Company believes complaint is the result of an isolated error	After completing a thorough investigation, the company determined that the complaint resulted from an isolated error that has been addressed by the company.
Company believes complaint caused principally by actions of third party outside the control or direction of the company	The company assessed the complaint and, based on the customer's narrative, it appears to have been caused by actions of a third-party.
Company chooses not to provide a public response	The company takes consumer complaints and the consumer's right to privacy very seriously, and has contacted the consumer directly to resolve the matter in a non-public forum.
	<b>NEW PROPOSED RESPONSE 1:</b> After completing a thorough investigation, the company has determined that the complaint is without merit.

<sup>2</sup> The CFPB company responses presume that everything the consumer wrote is "fact." However, that is not necessarily the case. The narratives only contain allegations and we would like the opportunity to respond without implicitly acknowledging that everything in a consumer's narrative is a "fact."

<sup>3</sup> "Misunderstanding" could mean a variety of things. The CFPB should clarify – Is it a misunderstanding by the customer? The company? A misunderstanding of the law?

	NEW PROPOSED RESPONSE 2: After completing a thorough investigation, the company has determined that the consumer who submitted the complaint is not a customer of the company. <sup>4</sup>
	NEW PROPOSED RESPONSE 3: The company contacted the customer and resolved the matter privately.
	NEW PROPOSED RESPONSE 4: The company is unable to conclude the investigation because the customer has not responded to the company's communication attempts.

Currently, companies are restricted to only one response, even when more than one applies. That is unfair. Since companies cannot respond with a narrative, the CFPB should provide them with an opportunity to respond by selecting multiple responses. This could alleviate potential roadblocks when a company chooses to respond, but is unable to do so accurately or completely from the few multiple choice options the Bureau allows.

**B. Notifying Companies When Consumers Opt-in**

The CFPB has already demonstrated its ability to provide notifications of consumer complaints to companies. Therefore, it follows that that CFPB has the same ability to notify companies when consumers choose to make their narratives public. Having a company try to determine whether a consumer opted-in is an unduly cumbersome and time-consuming process. It does not lend itself to encouraging the transparent public communication structure the CFPB claims to seek.

A company does not have the ability to reconcile the fields in the Database with the information in the CFPB Consumer Complaint Portal because the data provided in these two platforms does not match. Hence, it takes time-consuming reverse engineering to identify which responses have been disputed, particularly when the CFPB “date sent to company” does not actually match the date the company received the complaint from the Portal.

AFSA requests that the CFPB change its policy and notify companies registered with the Portal when consumers opt-in to making their narratives public, and also when consumers dispute a company response. This will help companies allocate time and resources to analyzing complaints and identifying potential trends and make the consumer complaint process more transparent.

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<sup>4</sup> We understand that even though the CFPB takes steps to verify a commercial relationship between the consumer and the company, there have been instances where misdirected complaints have been posted on the Database linked to the incorrect company. Companies should have a response choice for those instances.

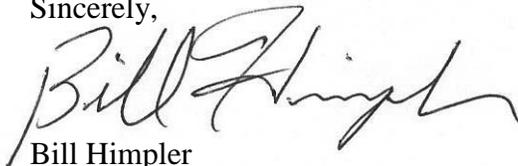
### C. Conclusion

AFSA reiterates what we wrote in our September 22, 2014 letter to the Bureau in response to the proposed policy statement.<sup>5</sup> The policy is impracticable and unworkable for the following reasons: (1) it does not adequately protect consumers' privacy, (2) publicizing unvalidated and unverified consumer narratives will not be beneficial to consumer choices, (3) publishing both the consumer narrative and the company's response will unfortunately have a chilling effect on communication between the two parties, and (4) it does not address the unjustified and significant brand and reputational risk to financial services companies. It is our understanding that it is not the CFPB's intention to unfairly damage or hurt the reputation of financial service companies by publishing the consumer narratives. The CFPB's goal, as we understood it from the very beginning, was to create a communication channel between all parties that would provide a fair and unbiased platform in resolving issues between the concerned parties.

The CFPB states that other government websites include databases with narratives that have helped inform consumers about a range of products. However, those comparisons are not valid. Information about a consumer's experience with a financial product or service is covered by a number of privacy restrictions. These restrictions do not apply to consumer narratives about other products.

We look forward to continuing to work with the CFPB on this issue. Please contact me by phone, 202-466-8616, or e-mail, [bhimpler@afsamail.org](mailto:bhimpler@afsamail.org), with any questions.

Sincerely,



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<sup>5</sup> AFSA's September 22, 2014 letter to the CFPB in response to the proposed policy statement is available here: [http://www.afsaonline.org/library/files/legal/comment\\_letters/AFSA-ConsumerComplaintNarrative.pdf](http://www.afsaonline.org/library/files/legal/comment_letters/AFSA-ConsumerComplaintNarrative.pdf)