

July 16, 2018

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

Re: Request for Information Regarding the Bureau's Consumer Complaint and Consumer Inquiry Handling Processes (Docket No. CFPB-2018-0014)

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 and consumer inquiry handling processes. We understand that the Bureau is looking for information from stakeholders to guide it in accepting and processing consumer complaints and inquiries regarding consumer financial products and services. AFSA appreciates the efforts of the Bureau to engage with members of the public, consumer advocates, and industry representatives.

AFSA recently provided feedback to the Bureau regarding its consumer complaint reporting processes. Our letter expresses the views of our member companies about steps the Bureau should take to improve the accuracy of consumer complaints and improve the function of the complaint process for the benefit of consumers and providers of consumer financial products and services.

I. The Bureau's Consumer Complaint and Consumer Inquiry Handling Processes Should be Assessed in Keeping with the Bureau's Strategic Plan and Priorities

Among the Bureau's primary functions under federal law is "collecting, investigating, and responding to consumer complaints...."² 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."³ The written testimony of Acting Director Mulvaney before the Senate Committee on Banking, Housing and Urban Affairs articulated that the Bureau will consider impacts on consumers and providers of consumer financial services when discharging the Bureau's duties.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 12 U.S.C. § 5511(c)(2).

³ 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

⁴ Written testimony of Mick Mulvaney, Bureau of Consumer Financial Services, Before the Senate Committee on Banking, Housing and Urban Affairs, April 12, 2018, accessed at <https://www.consumerfinance.gov/about-us/newsroom/written-testimony-mick-mulvaney-acting-director-before-senate-committee-banking-housing-urban-affairs/>

With these precepts in mind, the Bureau should consider tailoring its consumer complaint and consumer inquiry handling processes to more efficiently perform the functions required under federal law without straying outside the Bureau's authority. The Bureau should also seek opportunities to balance the interests of consumers and covered persons, each of whom play critical roles in ensuring that markets for consumer financial products and services are fair, transparent and competitive.

II. Suggestions Regarding Consumer Complaint Handling Processes

AFSA member companies offer the following suggestions to help improve the manner in which the Bureau handles consumer complaints.

- a. The Bureau should engage in educational outreach to assist customers in articulating complaints that are complete and actionable. AFSA member companies report that consumer complaints frequently lack a reasonable basis in fact, as consumers are too often mistaken or misinformed as to the role of various companies in consumer credit transactions. The Bureau can help improve the accuracy of consumer complaints by offering education outreach that better explains how the consumer finance industry operates. For example, a consumer might be concerned about a sudden decrease in a credit score and file a complaint against a creditor. A credit score complaint should be filed against a consumer reporting agency (CRA), as CRAs are responsible for creating a credit score. However, a dispute about the contents of a consumer credit file should be addressed by the CRAs and the furnisher of the credit file information as provided under the FCRA. AFSA notes that in the Bureau's Consumer Complaint Form Product and Issue Options document effective April 24, 2017, there are several references indicating "Selecting 'Problem with credit report or credit score' will take the consumer to the credit reporting product."⁵ Based on information from AFSA member companies, this feature is not effective in routing credit score complaints to the CRAs.
- b. The Bureau's forms for consumer complaint intake are incomplete, leading, and demonstrate bias against creditors. The current forms lead to generation of inaccurate complaints, and the Bureau should revise them to be neutral. When a consumer files a complaint with the Bureau, an online form takes consumer inputs to create the complaint record. The wording of the fields proposes a variety of problems from which the consumer selects a category. The effect of this is to place the consumer's complaint into a predetermined category, which may fail to accurately capture the consumer's complaint. For example, the wording in Step 2/5 in the "installment loan" complaint progression provides the following categories for the customer to choose:
 - i. Getting the loan (confusing advertising or marketing, credit denied)
 - ii. Problem when making payments (billing, privacy issues)
 - iii. Struggling to pay your loan (payment plan, repossession, bankruptcy)
 - iv. Problem with the payoff process at the end of the loan (refinancing, extending loan)
 - v. Charged fees or interest you didn't expect
 - vi. Problem with additional add-on products or services
 - vii. Problem with credit report or credit score

⁵ Accessed at

https://files.consumerfinance.gov/f/documents/201704_cfpb_Consumer_Complaint_Form_Product_and_Issue_Options.pdf.

Note the complete absence of an option to choose a category of “other,” coupled with the consistent negative tone of the offered categories. In order to reduce the current bias, the categories should be revised as follows:

- i. Getting the loan (application, advertising or marketing)
 - ii. Service while repaying the loan
 - iii. Experiencing difficulty repaying the loan
 - iv. Payoff process at the end of the loan (refinancing, extending loan)
 - v. Interest and other charges
 - vi. Additional add-on products or services
 - vii. Problem with credit report
 - viii. Other
- c. The Bureau’s consumer complaint intake processes should be revised to improve complaint routing to the appropriate party. Some consumer complaints are improperly directed to parties that are not responsible for the subject matter of the consumer complaint. In addition to the example provided above regarding a data furnisher not being responsible for a credit score, a common problem relates to consumers complaining to a vehicle finance company about some aspect of the financed vehicle’s quality or performance. In both of these examples, a consumer complaint to a creditor is futile. The Bureau should revise its complaint intake processes to prevent such consumer complaints from being directed to parties who are not responsible for the alleged issue.
- d. The Bureau’s consumer complaint intake portal should be enhanced to allow additional text formatting. Currently, consumer complaint narratives and company responses cannot be formatted with paragraphs, which limits the ability of participants to communicate clearly. Passages of text would be more expressive with additional formatting options for paragraphs, indentation, bullets, and numbered lists.
- e. Companies named in consumer complaints should have the ability to revise the categorization of consumer complaints for accuracy. AFSA member companies report instances where the consumer complaint is categorized incorrectly. In order to help streamline research and resolution of such complaints, the named party would like the ability to revise the categorization initially selected by the consumer.
- f. Companies named in consumer complaints should have additional time to respond to consumer complaints. The Bureau currently requests that companies respond to consumer complaints within 15 calendar days, and considers “untimely” a failure to provide an initial response after 15 calendar days.⁶ AFSA member companies respectfully request a longer initial period to perform a review of the complaint. The FCRA permits responses to consumer complaints and disputes within 30 days, and that period should be used here for the sake of consistency.
- g. After a company named in a consumer complaint has provided a response, the Bureau should indicate on the complaint record whether the Bureau considers the complaint closed. AFSA member companies request that the Bureau provide clear indications whether a particular

⁶ 78 Fed.Reg. 21226 (Apr. 10, 2013).

complaint is being considered by the Bureau for enforcement, supervision, or examination purposes.

III. Consumer Inquiry Handling Processes

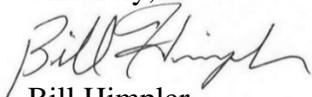
The Bureau defines consumer inquiries as requests for information about consumer financial products and services, the status of a consumer complaint, an action taken by the Bureau or some combination of those items.⁷ In order to support fair, transparent and competitive operation of markets for consumer financial products and services, AFSA member companies request the Bureau to give providers of consumer financial products and services aggregated information relating to the content of consumer inquiries.

In those instances when a consumer inquiry names a particular covered person, AFSA member companies request that the Bureau will share information about the inquiry with the named party to allow it to investigate.

IV. 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

⁷ 83 Fed.Reg. 16839 (Apr. 17, 2018).