

Consumer Financial Protection Bureau
1700 G St., N.W.
Washington, DC 20552
Bureau of Consumer Financial Protection

Docket # - CFPB -2018-0006

Re: CFPB RFI # 6 - Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information

June 4, 2018

Dear Acting Director Mulvaney:

Thank you for the opportunity to respond to the Consumer Financial Protection Bureau's (CFPB) Request for Information (RFI) number 6 on the public reporting of consumer complaint information. The undersigned consumer protection, civil rights, fair lending, higher education and community groups welcome the opportunity to express our vigorous support of the CFPB's public complaint process and provide input on the value of public consumer complaint reporting, review, and analysis via the CFPB's complaint process.

The public complaint database is a tool that empowers individuals to inform and protect themselves in the marketplace. It helps consumers evaluate a company's practices as they decide where to take their business and creates incentives for companies to treat their customers fairly. It helps both consumers and businesses resolve problems when they arise and helps the market reward good products and services by providing consumers with the ability to publicly share their experiences. The complaint database also allows companies to identify and correct problems on their own without the impetus of a new rule or enforcement action.

The database can provide consumers, advocates and the Bureau with the substance required to prompt a review of business behavior that can detect and challenge abusive and discriminatory practices.

As noted in the RFI, the Dodd-Frank Wall Street Reform and Consumer Protection Act considers "collecting, investigating, and responding to consumer complaints"¹ such vital tasks that it is specifically enumerated as one of the six statutory "primary functions" of the Bureau.

CFPB's statutory obligations and functions

¹ Dodd-Frank 5511(c)2

As the sole federal financial regulator created for the purpose of consumer financial protection, the Bureau has rightly developed a robust, trustworthy complaint process that includes access to a public complaint database to meet its consumer protection mandate.

Providing consumers access to a public complaint database fulfills the Bureau's obligations to ensure that:

- 1) "consumers are provided with timely and understandable information to make responsible decisions about financial transactions"; and
- 2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination."²

These obligations, combined with the Bureau's statutory function of "collecting, researching, monitoring, and *publishing* information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers" all add up to a powerful argument for the vital role a public database plays in advancing the legally mandated work of the Bureau.

Additionally, the Bureau has a duty to compile and analyze borrower student loan complaints. Section 1035 of Dodd-Frank specifically mandates the CFPB's Student Loan Ombudsman to "attempt to resolve" consumers' private student loan complaints.

Our organizations represent the consumers, seniors, servicemembers, veterans, students and underrepresented communities across our nation who rely on the consumer protections that the CFPB was created to support and enforce. It is essential that the CFPB not retreat from its core mission to protect and inform consumers and to make our financial markets more fair, accountable, transparent and competitive.

The CFPB's public complaint reporting and analysis is not just useful; the Bureau's collection and dissemination of consumer complaint information is an indispensable resource for consumers to empower and protect themselves in the marketplace.

Public reporting practices

We commend and support the Bureau's public reporting practices and do not believe that it is appropriate to revise the bulk of the Bureau's public reporting practices. Any effort to inhibit data transparency would be contrary to the Bureau's objectives as laid out in Section 1021 of Dodd-Frank, as previously noted.

² Dodd-Frank Section 1021

The CFPB makes information available in numerous formats to meet varying needs, diverse audiences, and statutory mandates. The Consumer Bureau:

- Creates and posts educational materials, often in multiple languages, to help consumers better understand complex and costly transactions such as a mortgage or home equity loan.
- Researches and reports publicly on topics that directly affect consumers' personal financial lives and their access to credit, such as its report on medical debt on credit reports and the impact on consumers' ability to access a loan.
- Produces required complaint-related annual and semi-annual reports and analyses for Congress and, until November 2017, released monthly complaint reports.

We urge the Bureau to resume regular publication of the monthly complaint reports, which were a resource for researchers, advocates, consumers, and customer-oriented companies to better understand complaint issues and outcomes.

The CFPB also provides public access to consumer complaints via its complaint database. The Bureau's public database – with first-hand details of consumers' financial complaints--provides a highly valuable tool for consumers who want to prevent problems, identify harmful business practices, and learn whether a company has a good record of resolving complaints. Complaint specifics are only available after consumers choose to share their personal dispute in the public database. No personally identifiable information is shared publicly.

The Bureau has gone to great lengths to protect consumers' personal information and to thoughtfully balance personal data protection with complaint data transparency. The Bureau has developed strict redaction, de-identification and opt-in consumer consent policies prior to publicly releasing complaint details.

Freedom of Information Act

In addition to the strong public policy argument for maintaining the public nature of the database, there is a simple practical argument as well: information in the CFPB Complaint database should remain publicly accessible because the data will become available in any case in light of requests by consumers and researchers under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Repeated requests for information under FOIA would compel the agency to publicly release complaint data.

FOIA requires that, once a record is subject to a FOIA request under 5 U.S.C. § 552(a)(3), that record must be made available to the entire public in an electronic format if the agency determines that it is or is "likely to become the subject of subsequent requests for substantially the same records" or if the record has "been

requested 3 or more times.”³ The agency’s regulations also make clear that when a record must be made available electronically, it must appear on CFPB’s website.⁴

The CFPB’s own FOIA logs already identify repeated FOIA requests for consumer complaint records, and there will undoubtedly be more such requests should the consumer complaint database become unavailable on CFPB’s website. There can be no question that records in the database are “likely to become the subject” of subsequent FOIA requests for the same or substantially the same records. The CFPB appears to acknowledge as much: Its Electronic FOIA Reading Room, where the CFPB compiles “records that are requested a significant number of times,” already directs members of the public to the CFPB complaint database.⁵

Moreover, the Bureau is not the first, or the only, federal agency to release redacted narrative information. Upon receiving a FOIA request, the Federal Trade Commission releases redacted details from individual consumer complaints. The FTC does not use an opt-in method before releasing consumer complaint information, which makes the CFPB’s policy more protective of complaint data than its sister agency. The Consumer Product Safety Commission also publishes detailed complaint data, with consumer consent and business responses.⁶ The National Highway Traffic Safety Administration also provides public access to car safety complaints.⁷

Usefulness of complaint reporting and analysis

The Bureau’s complaint process empowers consumers to detect and report unreasonable, unfair, deceptive, and abusive practices to alert others in advance of problems.

Public complaint reporting helps researchers, advocates and individuals begin to identify some fair lending issues and illegal discrimination in the areas of mortgage loan servicing, student loan servicing, and small business lending.

Access to firsthand consumer complaint information allows individuals to see what problems have come up repeatedly with certain products or services, or with particular companies, as well as to get a snapshot of what companies do or do not work to resolve consumer complaints. This data allows consumers to make more informed financial decisions.

³ 5 U.S.C. § 552(a)(2)(D); 12 C.F.R. § 1070.11(c).

⁴ (12 C.F.R. § 1070.13(b))

⁵ <https://www.consumerfinance.gov/foia-requests/foia-electronic-reading-room/>.

⁶ Consumer Product Safety Commission, *SaferProducts.gov*, <https://www.saferproducts.gov/>.

⁷ National Highway Traffic Safety Administration, <https://www.nhtsa.gov/recalls#vehicle>

Database users can review the narrative details of a complaint, which are invaluable for consumers, researchers and other businesses to put the issues in context and allow the public to assess the validity of a complaint and draw their own conclusions. Examining complaint narratives provides consumers with critical information about the specific grievances people experience.

The CFPB's process facilitates responses to individual complaints, which helps to hold companies accountable. The fact that the complaint database is available to the public is the deterrent that some companies need to address complaints they would otherwise ignore, and the impetus for other firms to resolve complaints, where possible. After addressing the underlying issues in a complaint, consumer advocates have been asked by companies to inform the CFPB that the problem has been resolved, which illustrates the complaint database's effectiveness in motivating companies to resolve issues and deterring them from ignoring disputes.

Some firms privately admit that the mere existence of the public database has compelled them to improve customer service and internal dispute resolution processes, creating better outcomes for consumers *and* the company.

In many instances, when consumers have been unable to get a company to address their concerns, it is the act of filing a complaint with the CFPB that ultimately prompts a business to address the problem. For example, a company continuously denied a consumer's extensive attempts to resolve fraudulent activity on his bank account. This consumer tried to work directly with the bank for a year and a half, to no avail. After filing a complaint through the CFPB, he quickly received his money back. In another case, even after calling the company six separate times, a consumer was unable to reach anyone at the mortgage company to answer her questions about an error in the terms of her mortgage modification. Once her housing counselor helped her file a CFPB complaint, the company quickly contacted her and stayed in regular communication until the error was corrected and her questions were answered. The complaint database should be preserved as a public database precisely because it is an effective tool for consumers to get their complaints responded to and in some cases resolved.

Consumer-driven tools, such as the CFPB's online complaint database, use a free market approach to encourage companies to police themselves and lessen the need for government intervention. The visibility of complaint information gives companies an incentive to treat consumers fairly and correct problems promptly on their own, potentially avoiding regulatory or enforcement activity.

Recently the Bureau began collecting direct consumer feedback on how complaints have been handled. This additional detail affords the Bureau useful insight into where consumers have been satisfied with company responses and where breakdowns have occurred in the complaint resolution process. It also allows the Bureau to identify a pattern of problems and, where appropriate, use one of its

many tools to generate change based on the type and severity of the complaints and complaint outcomes.

Public access to the feedback portion of the system would enhance the complaint process and reward customer-focused companies with the chance to gain credit and credibility for avoiding and resolving complaints based on first-hand customer feedback. We'll discuss this further in the improvements section below.

It is in both the public's and government's best interest – and a key part of the CFPB's mission-- to use data to provide the public with “timely and understandable information to make responsible decisions about financial transactions” (Section 1021)

Authors Blair Levin of Brookings Institution and Larry Downes of Georgetown University maintain, *“Consumer-supplied information can reduce reliance on regulation and enforcement to protect consumers by encouraging market forces that reward better business practices...the bureau has embraced an uncontroversial economic view that the free market works best when all sides have complete information about one another.”*

When government systems foster transparency and accountability, they result in more economical and efficient outcomes. The state of California is making use of a similar dynamic in turning to “peer-to-peer ratings” combined with state imposed safety standards to improve government efficiency. California's Public Utilities Commission relies on ride-share platforms to help ensure driver compliance and public safety *and* use driver and passenger ride-share ratings to help create less expensive, more efficient government oversight for ride-share users.⁸

The CFPB complaint information also has an important advantage over other online government complaints databases because the CFPB verifies the consumer's commercial relationship with the company and clearly discloses that consumer claims are not confirmed. It rightly leaves the validity of the complaint and complainant up to the reader to judge its value. If the CFPB database reveals that a company has hundreds of complaints posted about the same unfair or predatory practice, an individual can evaluate whether the company deserves its business. Readers may draw different conclusions from first-hand complaints, and they can learn from and be influenced by successful resolutions of problems, as well as the descriptions of the problems themselves.

There is no evidence that any public complaint data has caused harm to any individual company. While fears of reputational harm have been broadcast for years, not one company has been able to publicly claim actual damage directly linked to

⁸ (Washington Post oped – https://www.washingtonpost.com/news/innovations/wp/2018/05/02/we-need-more-not-fewer-government-yelps/?noredirect=on&utm_term=.ff8881fc81b6)

Bureau public complaint data, much less damage linked to inaccurate complaint data. The public benefits of the complaint database in providing transparency, accountability and understandable information to consumers far outweighs any concerns of unproven corporate fears.

Access to the public database and frequency of reporting

Any changes that would diminish the Bureau's public reporting practices of consumer complaint information, including public access to its online complaint database, would be a dereliction of the CFPB's duty to protect consumers and provide the most meaningful information possible for consumers to make wise financial decisions. Hiding complaint information harms consumers who are trying to make responsible financial decisions in a timely manner. Removing or limiting public access to the database would make the entire complaint process less effective because companies' bad behavior--and good behavior--would no longer be publicized, reducing both the deterrent effect and the incentive to respond to and resolve complaints.

As noted, since November 2017, the Bureau has stopped publishing monthly complaint reports. The Bureau should resume these regular reports and include more robust examples of the specific types of problems consumers are experiencing. Based on narrative data, reports could, for example, include the primary details in consumers' credit reporting complaints, such as "disputes remain unresolved about misidentified debts" or "incorrect account delinquencies are not removed from credit file even after dispute." To make the database more accessible, the Bureau should add a field to list each complaint in the public database by the name of the subsidiary company known to the consumer, in addition to the corporate parent name that is used to transmit the complaint to the responsible party.

Inclusion of specific complaint details, such as the names of companies subject to the most complaints, is "net beneficial" to the public which this agency was created to serve. If consumers are alerted to specific companies with chronic customer care problems, consumers can take this into account when deciding with which firms to do business. Companies can improve their own policies and practices by observing what bad practices their competitors engage in that result in consumer complaints and potentially improve their own competitive appeal.

The existence of the database is as much for the public as it is for the Bureau's benefit. Public complaint reporting should also be regarded as part of the Bureau's statutory obligation to educate the public on financial matters. Analysis of complaint information should be shared at regular intervals with the public. But this is no substitute for continuing to provide consumers with continued access to the complaint database to do their own review and evaluation of first-hand complaint information. The Bureau should also regularly report on complaint types, specific problems and specific companies which are the subject of the most complaints, as well as complaint outcomes.

Monthly reports should contain all information released in previous monthly reports and there should be increased efforts to raise awareness and understanding of the complaint reports. The Bureau could generate a semi-annual breakdown of statewide complaint data, similar to the October 2017 special report, with 50 states' data.

Financial companies should not be given the privilege of responding to CFPB reports prior to releasing the report to the public to avoid the appearance of undue influence by companies. However, we would support expansion of the company response options in the complaint process. Currently companies may only choose from nine standardized public responses to consumer complaints. We suggest expanding company responses to include corporate narratives, just as consumers are afforded that option.

Specific suggestions for improvements to the complaint process

We urge the Bureau to expand the use of the complaint feedback process to include public access. Since late 2017, the collection of feedback on the outcome of complaints makes the process far more valuable and accountable. This is an outstanding tool that allows consumers to better understand how companies respond to complaints, and allows businesses to both better understand their customers and more accurately measure customer service performance. Additionally, direct feedback helps the Bureau better recognize companies that are consistently providing excellent customer service and companies that are falling short. Firsthand feedback on complaint outcomes can alert the Bureau and businesses to remaining unresolved problems, communications breakdowns, and the potential existence of festering harmful trends.

Details from consumer feedback on complaint outcomes should be incorporated into the public database. The one element missing from this stage of the CFPB's excellent complaint process is the public reporting of direct consumer feedback. Consumer satisfaction or dissatisfaction in a complaint's outcome – and the *details why*--are precisely the kind of information consumers value to indicate if a company has a habit of standing behind its products and services.

Complaints should be transmitted from the Bureau to each company complained about. Depending on the financial product or service, only a portion - in some cases less than half of complaints received (only 47% of debt collection cases, for example) are transmitted by the CFPB to the aggravating company. This fails to achieve one of the Bureau's primary functions of "collecting, investigating, and responding to consumer complaints," nor does it provide the public with the vital information needed to help consumers make responsible financial decisions. Every effort must be made (including use of U.S. Postal mail) to ensure that a consumer's complaint reaches the company, even if the company is not connected to the portal, to increase the likelihood of resolution.

All consumer complaints received by the Bureau should be reported publicly.

All complaints filed with the CFPB should become part of the public database, including complaints referred to other agencies or involved in a lawsuit. These complaints can include a note that they were referred to a specific agency or not addressed by the Bureau due to litigation, but the existence of these complaints should nonetheless be reported publicly. Complaint reports should include all complaints to allow researchers and the public to review the full complement of complaints received and evaluate how widespread a harmful practice may be.

All complaints should be listed by the specific company the consumer complained about, as well as by the parent company's name. The Bureau should list each complaint in the public database by the company name used by the consumer in the complaint, not only by the parent company's name. Reporting complaints by the company name that a consumer would recognize makes the complaint far more useful to the public in evaluating a company's practices and helps to hold the company accountable.

Complaint resolution details should be publicly reported. The Bureau should make it possible for consumers to see how individual companies are handling the complaints they receive in the database. A company "snapshot" could include an overview of response times, explanations and relief. Resolutions should be broken down by monetary relief, including dollar amounts received, combined with the type of complaint filed and company name. Non-monetary relief should report the specific actions taken by a company, such as, "Error removed from credit bureau records," "interest rate changed." A summary of resolution details could appear when a consumer hovers over a company name. Additional complaint resolution information--broken down by company--should be released in an annual specialty report.

Complaint explanation details should be publicly reported. The vast majority of consumers receive a private explanation in response to their complaints. Consumers have frequently reported that they are not provided with a meaningful company response to their complaint; receiving instead a nebulous, unresponsive reply. Details from company explanations should be transparent to the public and reported in summary form. The Bureau should compile company responses and provide the public with the primary explanations consumers are receiving. Response examples might include why a credit line was not increased or a loan was denied. Companies are required to provide complainants with *tailored* responses, rather than a stock, vague reply that does not address the consumer's concerns. In a monthly or specialty report, the Bureau should publically disclose companies' most common response examples, including vague replies. How a company typically responds to its customers' complaints is precisely the type of helpful information consumers can use when evaluating which businesses to engage with. Highly responsive companies would benefit from this public disclosure, even when the response is not in the consumer's favor.

The Bureau should improve the targeting of its scrubbing standard. While consumer privacy is imperative, sometimes too much information is redacted from complaint details (dates, times and numbers), and what data is removed often seems inconsistent. While personally identifiable information should remain redacted, details about the situation forming the basis of the complaint should be made publicly available so that consumers can better understand what happened.

Consumer complaint data should be made more accessible and more user-friendly. The Bureau should be commended for continuously seeking feedback from the public and for its constant improvements to the database, which are regularly published in updated release notes. For example, as recently reported, the interface has seen improved tools for filtering and visualizing complaints [Consumer Financial Protection Bureau, *Consumer Complaint Database Release Notes for 14 November 2017*, 14 November 2017, archived at <https://web.archive.org/web/20180514030347/http://cfpb.github.io/api/ccdb/release-notes.html>]. Nevertheless, the Bureau should continue to demand that its online database vendor Socrata create a more entry-level user-friendly interface so consumers can more intuitively select the most useful dataset views. Power users often simply download the dataset into their preferred analysis software. It makes sense to better optimize the online viewer for entry-level users—average consumers. The *Read Consumer Narratives* section is the most valuable option for consumers because it supplies complaint details. The *View Complaint Data* section is too similar to *Read Narratives* and should be made easier for consumers to sort or filter. Consumers will not know to convert data to columns in *View data in Socrata*, nor how to best review the columns.

The consumer complaint database should be made more accessible to small business owners. The complaint database should be more available as a tool for small business owners seeking to submit concerns about financial products and services. While individual consumers have filed approximately 1.4 million complaints with the Bureau, an estimated 911 small business-related complaints have been filed with the CFPB from 2011 through the first half of 2017, according to a review by the California Reinvestment Coalition. The Consumer Bureau could improve outreach and enhance its website to make clear that small business owners are welcome to file financial complaints. Making the complaint database more accessible to consumers who own small businesses would empower small business owners to apply this tool and help the CFPB exercise its existing authority to identify and enforce fair lending law, and to develop a critically needed small business data collection rule.

The Bureau should require timely, tailored company responses.

The Bureau should require all companies supervised by the CFPB to adequately respond to and attempt to resolve consumer complaints within the 15 and 60-day time frames. The CFPB should pursue companies that do not respond to or resolve consumer complaints and hold them more accountable. The Bureau could follow up

with unresponsive companies directly and press them to provide more detailed, tailored responses and resolutions, both publicly and privately.

Fair Lending office authority should be restored. Since the Office of Fair Lending was recently stripped of oversight and enforcement authority, consumer complaints about discriminatory lending and housing issues that fall under the CFPB's jurisdiction risk not being addressed as required by law. We recommend rearming the statutorily mandated CFPB Office of Fair Lending & Equal Opportunity with its original powers to investigate and oversee discriminatory lending.

Conclusion

It must be noted that the amount of time and attention required to adequately address these numerous RFIs has diverted valuable consumer agency and third party resources to respond to these requests for information. These RFIs are primarily an opportunity for financial firms to attempt to weaken CFPB oversight, consumer protection, public input and access to fair and affordable financial products and services. The number, extent and opacity of these requests have made it impossible for organizations and consumers around the country to publicize and respond to all of them. The Consumer Bureau should not engage in a counting game, nor discount the input our organizations and other consumer interests have provided simply because we cannot match the resources that industry can devote to responding to these voluminous requests.

The public consumer complaint database has served as a vital tool to make markets work better. It allows consumers to make better financial choices, encourages firms to improve their customer service, allows competitors to take notice of practices that they should avoid, and provides academics and other researchers with an important view of the marketplace.

We urge the Bureau to maintain public access to the complaint database and to include additional detailed data in its statutory reports to provide the most meaningful information possible for consumers to make responsible financial decisions.

Thank you for taking the time to thoughtfully review our comments.

Sincerely,

Alaska Public Interest Research Group
Allied Progress
American Federation of Teachers
Americans for Financial Reform
Arizona PIRG Education Fund
Association for Neighborhood and Housing Development
Atlanta Legal Aid Society Inc.

California Reinvestment Coalition
CALPIRG
Center for Digital Democracy
Center for NYC Neighborhoods
Center for Responsible Lending
Community Legal Services of Philadelphia
Connecticut Fair Housing Center
ConnPIRG
Consumer Action
Consumer Federation of America
Consumers for Auto Reliability and Safety
COPIRG
Demos
Florida PIRG
Generation Progress
Georgia PIRG
Georgia Watch
Heartland Alliance for Human Needs & Human Rights
Higher Ed, Not Debt
Howard County Office of Consumer Protection
Illinois PIRG
Indiana Institute for Working Families
Indiana PIRG
Interfaith Center on Corporate Responsibility
Iowa PIRG
Legal Aid Society of the District of Columbia
Main Street Alliance
Maryland PIRG
MASSPIRG
Missouri PIRG
Montana Organizing Project
NAACP
National Association of Consumer Advocates
National Coalition for Asian Pacific American Community Development
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low income clients)
National Consumers League
National Fair Housing Alliance
National Housing Resource Center
National Urban League
New York Legal Assistance Group
New Yorkers for Responsible Lending
NJPIRG
NMPIRG
Ohio PIRG
Oregon PIRG

PennPIRG
PIRG in Michigan

Privacy Rights Clearinghouse
Privacy Times
Public Citizen
Public Justice Center
Public Law Center
RIPIRG
Student Debt Crisis
Tennessee Citizen Action
The Institute for College Access & Success
TexPIRG
Tzedek DC
UnidosUS
U.S. PIRG
WASHPIRG
WISPIRG
Woodstock Institute
World Privacy Forum