

June 4, 2018

Submitted via www.regulations.gov

Comment Intake
Consumer Financial Protection Bureau
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

Dear Sir/Madam:

Auriemma Consulting Group (“Auriemma”)¹ appreciates the opportunity to respond to the Bureau of Consumer Financial Protection’s (“Bureau” or “CFPB”) request for information (“RFI”) on the Bureau's public reporting practices of consumer complaint information and to assist the Bureau in assessing potential changes.

This letter reflects the views of a group of our clients including regional and mass market credit card issuers and other financial institutions. These organizations believe in a transparent and efficient market with strong consumer safeguards and venues for consumers to submit complaints.

Introduction

Our clients are committed to providing exceptional customer service and listening to their customers. These organizations make it easy for customers to submit complaints. They also devote substantial resources to complaint intake, investigation and response and promptly address issues. On average, our clients resolve customer complaints within 10 days.²

Comprehensive reporting and analysis are critical to a successful complaint management program, and our clients rely on complaint data to drive business transformation and better serve their customers. This commitment to service impels our clients to employ teams dedicated to complaint reporting and analysis, use technology and analytics to identify complaint trends and root causes, and provide a high degree of visibility into complaint reporting across the organization.

In addition to these internal efforts, our clients have incorporated the CFPB’s complaint reporting and analysis into their business and risk management routines. The industry appreciates the CFPB’s efforts to support the consumer complaint process and to provide additional data to financial institutions. The CFPB’s Consumer Complaint Database (“database”) has the potential to serve as a rich source of market-level complaint data, and ideally would enable financial institutions to draw meaningful comparisons about their complaint volume relative to peers.

¹ Auriemma Consulting Group is a management consultancy focused on the consumer payments and lending arena that has been advising financial institutions, retailers, capital markets participants, and other interested parties since 1984. We interact regularly with financial institutions of all sizes.

² Auriemma Consulting Group Customer Experience & Complaints Benchmark Study (Quarter 1, 2018)

However, the CFPB's complaint reporting is founded on flawed data, limiting its usefulness for consumers and financial institutions. On its website, the Bureau acknowledges that it does "not verify the accuracy of all facts alleged in [the] complaints" contained in the database. As a result, consumer complaints may contain unsubstantiated, inaccurate, and frivolous allegations – poor-quality inputs that ultimately affect the veracity of the output. Additionally, controls to prevent duplicate complaints are insufficient in practice, and complaint numbers fail to account for company market share, business model, and portfolio composition, further limiting their usefulness.

Despite flaws in the complaint system, the CFPB has pushed the envelope by aggressively expanding its complaint reporting and publication practices, leading to unintended consequences. This data is open to misinterpretation, can lead consumers to make misinformed decisions about financial products and services, and subjects financial institutions to the potential for undue reputational risk.

It is important to note the strategic changes currently underway at the CFPB, and that the Bureau's established approach to complaint reporting and publication is out of sync with its new strategic direction. The CFPB's five-year strategic plan explains how the Bureau intends to fulfill its statutory duties consistent with the strategic vision of its new leadership:

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. Indeed, this should be an ironclad promise for any federal agency; pushing the envelope in pursuit of other objectives ignores the will of the American people, as established in law by their representatives in Congress and the White House.³

In refocusing the CFPB, the strategic plan aligns the Bureau's mission, goals, and objectives with the requirements set forth in statute. In connection with this effort, Acting Director Mick Mulvaney has issued a public call for evidence "to ensure the Bureau is fulfilling its proper and appropriate functions" and to help it better fulfill its statutory obligations as defined by the Dodd–Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act").⁴

We applaud these goals and the CFPB's review of agency functions. In response, our below comments provide specific ways the CFPB can make its complaint reporting and publication practices more useful and more consistent with the Bureau's statutory objectives to improve outcomes for consumers and covered entities.

Frequency of Reporting

The Dodd-Frank Act requires the CFPB to provide certain information to Congress about complaints and responses on an annual and semiannual basis.⁵ Over time, the Bureau has aggressively expanded the frequency and scope of its complaint reporting and provided public access to unverified complaint data. Since 2015, the Bureau has begun publishing a series of monthly complaint reports highlighting trends from consumer complaints submitted to the Bureau and a series of "special edition" monthly complaint reports covering additional information. Moreover, the Bureau publishes consumers' complaints in a public web-based database and has expanded the database to include complaints about additional consumer financial products and services and consumer narratives. While the Dodd-Frank Act requires the Bureau to collect complaints, it does not require the Bureau to provide public access to complaint data.

³ Bureau of Consumer Financial Protection Strategic Plan FY 2018-2022 (February 12, 2018),

https://s3.amazonaws.com/files.consumerfinance.gov/documents/cfpb_strategic-plan_fy2018-fy2022.pdf

⁴ Acting Director Mulvaney Announces Call for Evidence Regarding Consumer Financial Protection Bureau Functions (January 17, 2018), <https://www.consumerfinance.gov/about-us/newsroom/acting-director-mulvaney-announces-call-evidence-regarding-consumer-financial-protection-bureau-functions/>

⁵ 12 U.S.C. 5493(b)(3)(C) requires the Bureau to report annually to Congress information and analysis about complaint numbers, types, and, where applicable, resolution. 12 U.S.C. 5496(c)(4) requires the Bureau to submit semi-annual reports to the President and certain congressional committees covering a range of topics, including "an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year."

(It is important to note that the CFPB has already placed on hold its monthly complaint reporting.⁶ In addition, according to reports, Acting Director Mick Mulvaney intends to eliminate public access to the complaint database because it contains unverified information.⁷)

In the spirit of the CFPB's strategic plan and recent call for evidence, the Bureau should limit complaint reporting to the statutory requirements.

The Dodd-Frank Act gave the CFPB six primary functions, including “collecting, investigating, and responding to consumer complaints.” This is an important statutory responsibility and one the industry supports. Our clients believe in a market with open and accessible venues for consumers to submit complaints.

In accordance with the Act, the CFPB should continue to collect consumer complaints and report to Congress on an annual and semiannual basis. Such reporting should align with the CFPB's statutory mandate and include information and analysis about complaint numbers, types, and resolution.

However, we encourage the Bureau to (1) make permanent its recent moratorium on issuing monthly complaint reports, which are net harmful to consumers and financial institutions and are not specifically required by the Act, and (2) end public access to the complaint database, which is open to misinterpretation and can lead consumers to make misinformed decisions about financial products and services.

The CFPB should continue to provide complaint data to financial institutions, but must take steps to enhance its reliability. As stated above, our clients have incorporated the CFPB's complaint data into their business and risk management routines. The industry believes this data could potentially provide insight into product and process improvements and add value to the extensive complaint reporting and analysis they perform internally. However, the lack of data validation and normalization creates significant limitations (we discuss these issues in detail in the “Content of Reporting” section below).

The CFPB should refocus its role in the complaints process on consumer education, an important statutory responsibility.

In the current environment, the Bureau functions as a “clearing house,” forwarding complaints to the appropriate company for a response and publishing information in the database. In this role, we believe there are important opportunities for the Bureau to provide valuable financial education to consumers.

Based on the nature of the complaint filed, consumers should receive information on how to address the root causes. For example, changes to a borrower's credit score are a common driver of complaints but are often due to factors outside the control of the lender, such as a borrower's repayment history. In these situations, the CFPB should provide financial education to help consumers better understand their credit reports and factors that affect their credit scores, such as making a late payment.

In addition, the CFPB should encourage consumers to contact their financial institution before filing a complaint with the Bureau. As stated above, this is a fast and effective way for consumers to resolve issues: our clients resolve customer complaints within 10 days on average.⁸

⁶ The CFPB has not published a monthly complaint report since October 31, 2017.

⁷ Hayashi, Yuka, CFPB Considers Ending Public Access to Complaints About Banks (April 24, 2018), <https://www.wsj.com/articles/cfpb-considers-ending-public-access-to-complaints-about-banks-1524601779>

⁸ Auriemma Consulting Group Customer Experience & Complaints Benchmark Study (Quarter 1, 2018)

Content of Reporting

The Dodd-Frank Act tasked the Bureau with ensuring “consumers are provided with timely and understandable information to make responsible decisions about financial transactions.”⁹ This is an important goal. However, in its current form, complaint data is unverified, lacking in context, and potentially misleading to consumers.

Issues with the content of reporting include the following:

- **Complaints are unverified.** The Bureau does not validate the factual allegations of complaints and places the burden of authenticating the commercial relationship with the consumer filing the complaint solely on financial institutions. As a result, complaints may contain unsubstantiated, inaccurate, and frivolous allegations or come from non-customers. Many complaints involve the delivery of products and services in accordance with the terms and conditions to which the customer agreed and do not involve wrongful conduct or regulatory violations on the part of the financial institution.
- **Complaints are often miscategorized.** Consumers self-identify the complaint type, leading to potential inaccuracies in public data. Available categories are imprecise and overlap, and the CFPB does not validate the accuracy of the consumer's selection.
- **Controls to prevent duplicate submissions are inadequate.** While the CFPB has system controls to identify and prevent publication of duplicate complaints from the same consumer,¹⁰ these controls are insufficient in practice. In one case, repeat complaints submitted by the same household represented a significant share of a company's state-level complaints and caused the company to be included in the list of most-complained-about companies. The acceptance of such duplicate complaints artificially inflates complaint volume and results in inaccurate public information.

The CFPB should devote resources to improving complaint data validation to improve the quality of output data.

Specifically, to address the issues identified above, we encourage the Bureau to do the following:

- Consider additional steps to verify the commercial relationship with the consumer before accepting complaints and establish an appeals process for companies to “flag” non-factual or otherwise invalid complaints.
- Allow companies to categorize or re-categorize complaint types rather than relying on consumers to provide this data input.
- Enhance existing controls to identify and prevent publication of duplicate complaints and/or consolidate duplicate complaints into a single complaint.

Related to the above point on customer verification, it is important to note that the CFPB's current process does not account for the complex relationships between financial institutions and other organizations that may be subject to a complaint. For example, a financial institution may be mentioned in the body of a complaint when the true nature of the complaint is related to a third-party vendor or servicer.

The Bureau should provide more context for complaint information, particularly with regard to product or service market size and company share.

Currently, the Bureau reports complaint volume by company, providing the total number of complaints without consideration of the number of accounts or transactions a company services or the composition of its loan portfolio.¹¹ A larger company, or one that serves borrowers with lower credit profiles, may have a larger volume of complaints regardless of service quality. Perhaps more concerning, a financial institution that acts responsibly from a safety and soundness perspective (e.g., closing an account due to credit risk) may be disproportionately impacted in the complaint database.

⁹ 12 U.S.C. 5511(b)(1)

¹⁰ Disclosure of Consumer Complaint Data (March 2013), https://files.consumerfinance.gov/f/201303_cfpb_Final-Policy-Statement-Disclosure-of-Consumer-Complaint-Data.pdf

¹¹ See, for example: Monthly Complaint Report Vol. 22 (April 2017), https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201704_cfpb_Monthly-Complaint-Report.pdf

Providing the total number of complaints against a financial institution without contextual information on that company's market share and/or business model limits opportunities for peer benchmarking. In addition, it can be difficult for financial institutions to act on complaint data without insight into peers' complaint management programs and how they differ.

Supplementing complaint data with context would make it more useful for market participants. Additional information on the size of a credit card issuer's business, or the provision of a complaint rate according to market share, for instance, would allow market participants to more readily draw comparisons.

Publishing the names of the most-complained-about companies is net harmful to the market.

As stated above, issues with the content of reporting have created the potential for undue and unwarranted reputational risk, particularly because the data is unverified and skewed by repeat, non-factual, or otherwise compromised complaints. In addition, the database subjects financial institutions to targeted attacks by groups or individuals whose motivations may not be in the best interests of consumers, the consumer lending industry, or the general public.

The CFPB should include more reporting on state and local complaint trends following natural disasters and other events.

Enhanced reporting at the state and local level could be beneficial following events that impact consumers, such as natural disasters and data compromises. Such reporting could help financial institutions ensure that relief measures (e.g., payment forgiveness) are implemented uniformly and that impacted customers receive the necessary support. In addition, one client commented that it would benefit from increased analysis on seasonal fluctuations in fraud (e.g., during the holiday shopping season).

Publication Process

If the Bureau decides to continue public access to complaint data, it should provide financial institutions with a publication schedule, including topic areas, so they can adequately prepare. The Bureau should also notify companies of their inclusion in a Bureau report prior to publication and invite company comment. In some cases, such commentary may highlight issues that warrant the publication of additional context or non-publication altogether.

Other Issues

Many of our clients use the analytics software Tableau to manage data. Previously, these clients exported data directly from the CFPB's database to Tableau. It is our understanding that this functionality no longer exists, requiring a more manual and time-consuming process to export data.

Conclusion

Auremma applauds the CFPB's recent call for evidence to ensure the Bureau is fulfilling its proper and appropriate functions. Through this process, we believe there are opportunities to improve outcomes for both consumers and covered entities and look forward to ongoing dialogue with the Bureau in its efforts to gather information and assess potential changes.