



3138 10th Street North  
Arlington, VA 22201-2149  
703.842.2215 | 800.336.4644  
f: 703.522.2734  
dberger@nafcu.org | nafcu.org

**B. Dan Berger**  
President & Chief Executive Officer

**National Association of Federally-Insured Credit Unions**

September 19, 2018

The Honorable Mick Mulvaney  
Acting Director  
Bureau of Consumer Financial Protection  
1700 G Street, NW  
Washington, DC 20552

**RE: Removal of the Consumer Complaint Database from Public View**

Dear Acting Director Mulvaney:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing to you regarding the Bureau of Consumer Financial Protection's (Bureau) public Consumer Complaint Database. NAFCU understands that the Bureau is in the process of reviewing stakeholder feedback and we wish to reiterate our position requesting removal of the database from public view. Removing the database from public view would mitigate the harm caused by unverified consumer complaints. Such an action is permissible under the *Freedom of Information Act* (FOIA) as the information gathered falls within an exemption category. NAFCU understands that providing a forum for consumer complaints is a statutory requirement; however, NAFCU agrees with your recent statements regarding the absence of statutory requirements to "run a Yelp for financial services sponsored by the federal government." No statute exists mandating the forum be public, so by allowing the database to remain public, the Bureau is statutorily overreaching. NAFCU strongly urges the Bureau to remove the Consumer Complaint Database from public view.

Although the database serves as a resource to identify trends and patterns of consumer complaints, the database invites unverified information, often in the form of subjective criticism that can pose serious reputational risks to targeted institutions. NAFCU and its members understand that the Bureau is bound by certain statutory requirements that permit consumers to contact the agency with their grievances. However, NAFCU does not believe that these statutory provisions necessitate the publication of the consumer complaint narratives online, and particularly not without proper vetting done at the outset. Furthermore, the publication of unverified information—potentially constituting subjective criticism—does not contribute to a more transparent marketplace, but rather facilitates distortion of consumers' views about particular financial products and services. Publication of unverified consumer narratives can have long-lasting effects on a credit union's reputation, resulting in fewer members, market share, and potentially resulting in more time-consuming examinations. The Bureau has acknowledged that "some consumers may draw (or be led to) erroneous conclusions from the data."

The Honorable Mick Mulvaney

September 19, 2018

Page 2 of 2

Removal of the database would be permissible under FOIA exemption #8 (5 U.S.C. § 552(b)(8)). Section 552(b)(8) exempts the disclosure of information contained in *or related to* examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions. The Bureau's examination and supervision of financial institutions is guided by information gathered from the database. Accordingly, complaint data should be treated as non-public information and should be limited to internal use given its significant influence over the Bureau's supervisory functions. Removal of the database from the Bureau's website further effectuates the public policy goals of the FOIA exemptions in general, which aim to protect private interests against harm. NAFCU's members are vulnerable to the harmful effects of the unverified complaints made public by the database. Accordingly, NAFCU urges the Bureau to remove the database from public view as soon as possible.

NAFCU appreciates the opportunity to provide commentary on the database. Should you have any questions or concerns, or if you would like to discuss this issue further, please feel free to contact me or Kaley Schafer, NAFCU's Regulatory Affairs Counsel, at [kschafer@nafcu.org](mailto:kschafer@nafcu.org) or (703) 842-2249.

Sincerely,



B. Dan Berger  
President and CEO