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National Association of Federally-Insured Credit Unions

June 4, 2018

Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20552

RE: Response to Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information
(Docket No. CFPB-2018-0006)

Dear Ms. Jackson:

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) request for information on the public reporting practices of consumer complaint information. Credit unions, as member-owned institutions, have a paramount interest in resolving their member-owners' issues as effectively and efficiently as possible and are generally responsive to feedback. Given the credit union industry's acute attention to complaint resolution, NAFCU and our members support the Bureau's efforts to facilitate and ensure markets for consumer financial products and services operate transparently and efficiently; however, the current public reporting practices skew transparency and do not work as intended.

General Comments

The Bureau has requested industry feedback on all aspects of its consumer complaint reporting and publication practices. NAFCU and our members appreciate the Bureau's continued attention to improving the complaint reporting process, but we remain deeply concerned about the existing reputational risks involved with the current reporting practices, in particular, the publication of the Consumer Complaint Database (the Database). Many of our members have internal policies and procedures in place for complaint resolution, supervisory committees that provide independent and impartial investigations into member complaints, and maintain close relationships with their members whereby complaints are handled efficiently and internally. By contrast, the Database invites unverified information, often in the form of subjective criticism that can pose serious reputational risks to targeted institutions.

The Bureau should not publish unverified complaint narratives on its website.

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.

NAFCU believes that the Bureau should not publish consumer complaint narratives on its website, or in any other format. There is no shortage of alternative channels through which consumers can comment on or critique the conduct of financial institutions. The recent comment made by Director Mick Mulvaney analogizing the Database as "Yelp for financial services sponsored by the federal government" emphasizes this fact and highlights the degree of subjectivity which permeates the Database.¹ As the Acting Director suggests, the government branding on the Database may give the false impression—regardless of disclaimers—that the complaints belong to an official list that bears some higher degree of reliability.

Publication of unverified consumer narratives can have long lasting effects on an institution's reputation, resulting in fewer clients, 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."²

The Bureau should implement additional safeguards if unverified complaint narratives continue to be published.

Should the Bureau choose to continue publication of consumer complaints, NAFCU recommends that additional safeguards be added. These should include additional pre-screening so that those consumer narratives that are inappropriate or based on subjective grievances against a company without a specific issue are scrubbed or removed. The Bureau states that narratives are scrubbed for "abusive, vulgar, offensive, threatening, or harassing language".³ The Bureau also states that once a complaint is lodged, the Bureau determines if the submission is a complaint, inquiry, or feedback, and the latter two categories are not forwarded for complaint resolution.⁴ It appears that the Bureau has published narratives that are merely criticism towards the Bureau itself and would fall within one of these latter categories and should have been removed.

¹ Katy O'Donnell, *35 Senate Democrats tell Mulvaney not to take down complaint database*, Politico, May 18, 2018.

² *Id.*

³ Narrative Scrubbing Standard, (March 2015), https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201503_Bureau_Narrative-Scrubbing-Standard.pdf

⁴ Disclosure of Consumer Complaint Narrative Data, 80 F.R. 15572 (March 24, 2015), "2015 Notice of Final Policy Statement"

The Bureau should also provide guidance to consumers to ensure that narratives are based on verifiable facts, then screen submissions to ensure that an objective narrative is provided. Given the Bureau's purpose of disclosure is to provide consumers with timely and understandable information about financial products and services, and to improve the functioning of the market by enabling informed decisions, it only seems necessary that the Bureau put in place additional safeguards, otherwise consumers will be making decisions based on subjective data. The Bureau wants to help consumers recognize "bad actors," but if a consumer simply misunderstands the internal policies of a financial institution and makes a complaint, the damage has been done regardless if the consumer was satisfied with the company's response or not. The unverified complaints are continuing to lead to misrepresentations about the industry.

The Bureau should refrain from issuing monthly complaint reports assembled from unverified complaint data.

The Bureau is statutorily required to report annually to Congress and semi-annually to the President, but has no requirement to provide monthly reports. The monthly complaint reports provide data on complaint volume, most-complained about companies, state and local information, and highlights complaint trends. NACFU recognizes that the last monthly report published was in October 2017, and appreciates the Bureau temporarily halting publication of the reports. The "quarterly complaint trend" data provided in the monthly reports tends to present an insular view of market data based solely on complaint information that the Bureau receives versus the industry as a whole. Furthermore, there is no information included in the report that establishes how a statistically significant trend is defined. NAFCU is concerned that merely assessing the volume of narratives submitted online—without regard to their validity—presents a faulty basis for establishing a statistically relevant “trend” that can be used to inform the public about the marketplace. This trend information can create confusion, mislead consumers, and portray all companies and financial institutions in a negative light. Accordingly, NAFCU strongly recommends that the Bureau cease publishing the monthly complaint reports.

In addition, the Bureau has no reliable method to verify the accuracy of every complaint submitted, which casts doubt upon the Bureau's ability to even categorize trends. The reports on servicemembers' and older consumers' complaints are based solely on those consumers self-identifying as falling into one of those two categories. NAFCU believes the Bureau should adopt internal processes for sorting and verifying complaint data to prevent unnecessary reputational harm.

The Bureau should permit companies to supplement complaint reports with their own perspectives and data.

Again, NAFCU recognizes that the last monthly report was published in October 2017 and appreciates the Bureau halting publication of these complaint reports. Should the Bureau choose to continue providing monthly complaint reports, NAFCU and its members suggest that the Bureau allow companies to supplement reports with their own observations to the complaints. Supplementing the complaint reports in such a fashion would give consumers, agencies, prudential regulators, Congress, and other end users of the complaint reports greater context

surrounding the complaints made. The Bureau itself has stated that it should "share data that provides an unbiased perspective on company behavior toward consumers."⁵

NAFCU also recommends that the Bureau consider ways to acknowledge efforts to resolve complaints before they reach the Bureau. Consumers typically lodge a complaint with a company and seek resolution directly before contacting the Bureau. The Database, as a final complaint resolution step, fails to adequately capture information about the initial stages of the complaint handling. Instead, the Database offers a portrait showing late-stage frustration. Companies can appear in an uncharacteristically negative light once the complaint reaches the Bureau, and receive no credit for reconciliation efforts that took place beforehand. Complaints may also reflect the consumer misunderstanding regarding how best to resolve an issue with their financial institution. The Bureau exacerbates this confusion by not requiring a consumer to first contact the company with their complaint, a policy decision that results in needless inefficiency.⁶

Since publication of consumer narratives began, the consumer has had the last word, whereas companies must limit their public responses in order to respect consumer privacy rights and confidentiality. To illustrate this disparity, the Bureau's annual reports provide comprehensive summaries of what consumers have said, often with verbatim reproductions of complaint narratives, but do not offer any equivalent (or even general) commentary regarding company responses. Moreover, the standardized categories of company responses to the complaints give the end user little information about the adequacy of the response provided, which may give the false impression that Companies have only minimally addressed consumer concerns. NAFCU recommends that the Bureau explore ways in which complaint reports can be supplemented with company's responses while still providing appropriate privacy protections for consumers.

NAFCU also believes that the Bureau should reconsider its assumption that complaint reports are unbiased merely because there is some data to demonstrate the timeliness of company responses and consumer dispute rates.⁷ Providing verbatim consumer responses in the reports is not an unbiased approach and data on timeliness is not a proportional representation of the company's perspective or commitment to complaint resolution. Ideally, complaint reports should be used to give end users a balanced assessment of how consumers view the Bureau's overall approach to complaint resolution, which could be accomplished by sending a private survey to the complainants and aggregating response themes in the reports.

In sum, NAFCU recommends that the Bureau discontinue publication of complaint reports that are based upon unverified data. Reports that consist of subjective criticism can be misleading to the public and result in long-lasting reputational damage to affected institutions. NAFCU also recommends that the Bureau explore ways to incorporate supplemental and voluntary company information regarding complaints and responses in order to ensure that all stakeholder perspectives are adequately represented. A balanced view of the complaint resolution process

⁵ Disclosure of Consumer Complaint Narrative Data, 80 F.R. 15572 (March 24, 2015), "2015 Notice of Final Policy Statement"

⁶ *Id.*

⁷ *Id.*

will achieve greater transparency, accuracy and improve understanding of the market for financial products and services.

The Bureau should better contextualize complaint data included in monthly reports.

The Bureau asks whether the agency should provide more context for complaint information, including product and service market size and data sources. The Bureau has previously indicated that their data driven approach to complaint reporting adequately addresses the reputational risks the Database poses. However, the current methodology of reporting does not allow consumers to differentiate complaints by company or institution type, or market size. This lack of differentiation leads to confusion and generalizations about the overall conduct of the financial services industry. Financial institutions that receive few complaints, such as credit unions, may suffer damage to their reputation because they are associated with a few bad actors. For example, the complaint reports include data regarding credit card complaints. Credit unions, banks, and retailers offer credit cards. But, the complaint reports do not differentiate complaints between credit card offerors. Accordingly, NAFCU asks that the Bureau not take advantage of its editorial powers to suggest that there are whole categories of problematic services or products when abuses are limited to a few, unscrupulous entities.

If the Bureau decides to continue publishing monthly reports, NAFCU suggests that the reports contextualize complaint data in terms of financial institution type and asset size. The current lack of context perpetuates the reputational risks of the Database. Including these data fields will allow for greater transparency and educate consumers.

The Bureau should institute faster methodologies to forward complaints to the proper agency.

When the Bureau is not the correct agency they forward consumer complaints to the correct agency for complaint resolution, however, the mechanism by which these complaints are forwarded is archaic given our technological abilities to route information instantaneously. One NAFCU member tracked complaints originally submitted to the Bureau and then transferred to the National Credit Union Administration (NCUA) for resolution in 2017. The average time from the date of lodging the complaint with the Bureau to the member credit union receiving notification of the complaint from NCUA was 29 days. The longest period tracked was a complaint lodged with the Bureau on January 31, 2017 and NCUA notification to the member credit union on March 13, 2017. The NAFCU member found that the majority of the complaints were resolved by the time notification was received from the NCUA.

Given the Bureau's ability to forward complaints to a particular company that the consumer specifies in a timely manner and the expectation that the company respond in a timely manner, surely the Bureau can forward these complaints to the NCUA faster. The Bureau needs to redesign the database to send complaints to the NCUA immediately once the Bureau analyzes the complaint and finds the complaint against the FCU does not fall within the Bureau's authority. Implementation of a faster method of routing to the appropriate agency is important in ensuring the Bureau gives financial institutions the chance to work efficiently and transparently.

Conclusion

NAFCU appreciates the opportunity to provide commentary on how the Bureau can improve the public reporting practices of consumer complaint information. Should you have any questions or concerns, or if you would like to discuss this issue further, please feel free to contact me at kschafer@nafcu.org or (703) 842-2249.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kaley Schafer', with a long, sweeping horizontal stroke extending to the right.

Kaley Schafer
Regulatory Affairs Counsel