



July 16, 2018

VIA Electronic Submission

Monica Jackson
Office of the Executive Secretary
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

Dear Ms. Jackson,

The Consumer Bankers Association (“CBA”)¹ appreciates the opportunity to comment in response to the Bureau of Consumer Financial Protection’s (“Bureau”) request for information on the Bureau’s Consumer Complaint and Consumer Inquiry Handling Process (“RFI”).² The Bureau is seeking comments and information from interested parties to assist in assessing its handling of consumer complaints and consumer inquiries and, consistent with law, considering whether changes to its processes would be appropriate.

CBA and its member institutions fully support the Bureau’s mission to provide prompt resolution to consumers’ complaint and inquiries. CBA’s members are dedicated to complaint resolution and customer satisfaction and believe the goal of the Bureau’s complaint data collection ought to be to improve industry performance and service quality, and to provide consumers with an avenue to deal with complaints when the company is unresponsive or is not providing a satisfactory resolution. It should not be used as a way to create disharmony between consumers and the financial services industry. It is important to note that keeping customers satisfied is a vital component of running any business. CBA members strive to ensure customers receive swift and complete review of all complaints and inquiries.

¹ The Consumer Bankers Association is the only national financial trade group focused exclusively on retail banking and personal financial services—banking services geared toward consumers and small businesses. As the recognized voice on retail banking issues, CBA provides leadership, education, research, and federal representation for its members. CBA members include the nation’s largest bank holding companies as well as regional and super community banks that collectively hold two-thirds of the total assets of depository institutions.

² Request for Information on the Bureau’s Consumer Complaint and Consumer Inquiry Handling Process, 83 F.R. 16839 (April 17, 2018).

As discussed in our response to the request for information regarding the Bureau's public reporting practices of consumer complaint information,³ CBA believes the Bureau's efforts should be to ensure every company has a strong complaint resolution process, assist in the resolution of complaints and red flag potential problems for further evaluation. However, the public release of complaint data on the Bureau's Complaint Database ("Database") increases privacy risks to the consumer and offers no value.

Complaint/Inquiry Classification

The Bureau should require consumers to classify their submission affirmatively as a consumer complaint or inquiry prior to submission. Currently, the Bureau does not validate whether a complaint is actually a complaint or just an inquiry by the customer. This includes "complaints" that are not valid indications of the performance of the institution or that do not fit the stated definition of "complaint." The Bureau states the definition of a complaint as the following: "Consumer complaints are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identified entity related to a consumer's personal experience with a financial product or service." Categories that might not fall within the definition include:

- Disputes that address issues not affecting the performance of the institution (e.g. roughly 16% of credit card disputes are billing errors; 8% are ID theft/fraud. Often these do not allege wrongdoing by the card issuer),
- Service requests and other inquiries (e.g. consumer's inquiry about the workings of a product or service, provided no allegation of a disclosure or other violation is being made), and

Other examples include instances of consumer frustration, but are not based any wrongdoing by a financial provider. For example, many complaints related to debt collection may be submitted merely because debt is being collected and without any real allegation of wrongful conduct. Other types of complaints do not allege wrongdoing by the institution at all, but are submitted to the Bureau because it advertises itself as a place to send complaints. Billing errors, as previously noted, often do not involve any claim of wrongdoing by a bank and are often quickly resolved once brought to the bank's attention. Yet in some cases consumers will file complaints with the Bureau rather than directly with their bank. Similarly, it is important for consumers to contact their bank about issues of ID theft or fraud, but in most circumstances these are not alleging any wrongdoing by the bank. Instead, they are asking the bank to assist by closing an account or reissuing a card. It is incumbent upon the Bureau to identify these submissions so they do not become complaints merely because they have been entered into the Database.

³ Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information, 83 F.R. 9499 (March 6, 2018).

The Bureau should be clear at the start of what a complaint is and consumers should be guided by a series of prompts that lead the consumer to understand if their issue is in fact a complaint or matter of inquiry. Complaints should then be added to the Database only if they meet the requirements for a complaint. Consumers with inquiries should be prompted to contact their bank directly. Additionally, complaints should only be logged into the Database when the consumer has contacted their bank and has not had their issue resolved to their satisfaction. In other words, consumers should always contact their bank first when they have a complaint or an inquiry. The Bureau should encourage this behavior by posting directions to this extent, highlighted on its home page. This process will result in faster resolution simply by taking the middleman out of the equation. The Bureau should also clarify its role as solely a liaison in the process and ensure customers understand the bank will be responding without guidance from the Bureau. We believe there is often a common misunderstanding in which customers think the Bureau is advocating on their behalf to receive a particular outcome. This provides a false incentive to file first with the Bureau instead of with the bank.

Definition of a Complaint

The Bureau should narrow its definition of complaints. We urge the Bureau to adopt a system of prompts (akin to that on the FTC complaint site⁴) that would help consumers qualify what is a complaint. The current definition is too broad and leads to consumers filing inquiries and basic statements of dissatisfaction that are not based on any wrong-doing or mistake. This system could be accomplished via prompts that will first direct complainants to their bank. For complaints where complainants have already reached out to the bank for assistance, the prompts would guide complainants to the Database. Consumers should also be provided with categories of complaints (i.e. debt collection, credit, fees, etc.) and provided with examples of same.

Complaint Reclassification by Financial Institution

CBA believes the Bureau should develop a process for financial institutions to reclassify consumers' submissions. Regardless of best efforts, some non-complaint filings will be made through the Database. Banks should be able to reclassify these "complaints" as inquires and return them to the Bureau for treatment as such. As a matter of procedure, if the Bureau continues to deem a bank-returned inquiry as a complaint and, therefore, return it to the bank, the 60-day resolution period should be initiated from the time of return to the bank.

Third-Party Submissions

The Bureau should limit third-party complaint filing to those with a legal fiduciary duty (i.e. attorney-client relationship, POA, guardianship, etc.). It should also restrict submissions from third party companies that are aimed at credit repair or debt validation. The Bureau currently allows consumers to authorize someone else (e.g., lawyer, advocate, power of

⁴ <https://www.ftccomplaintassistant.gov/#crnt&panel1-4>.

attorney) to submit complaints on their behalf. Allowing persons not bound by a legal responsibility creates privacy and safety and soundness concerns and all third-party filers should be required to submit proof of fiduciary relationship. Otherwise, banks would be required to share highly confidential information with non-fiduciary third parties, creating privacy concerns for customers and compliance concerns for banks. As such, complaints filed by third-parties with no fiduciary relationship should be returned to the filer and closed by the Bureau without marking the submission as a complaint.

Solicitation of Complaints

The Bureau should discontinue its practice of soliciting “complaints” from consumers via its website and written materials. The current process encourages consumers to file “complaints,” again, an overly broad term, directly with the Bureau. Filing of inquiries in the Database inflates the overall reported complaints numbers, giving a false impression of complaint activity.

Consumer Inquiry Processes

All consumer inquiries should be directed by the Bureau to the financial institution. As previously discussed, the Bureau should place a referral statement on their website that would direct inquiries to their bank directly. Inquiry submission by mail, email, or any other channel should prompt the Bureau to direct the consumer directly to their financial institution. Inquiries should never be collected and distributed by the Bureau as it is an unnecessary process that delays resolution and confuses consumers. This information would be useless and burdensome to all parties and would require the Bureau to log inquiries when they should be handled directly by financial institutions. However, CBA believes web chat functionality could help filter inquiries from complaints and provide for faster resolution of both.

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Again, CBA greatly appreciates the opportunity to share our thoughts and to work with the Bureau on these and other important issues. Please do not hesitate to reach out to CBA directly at dpommerehn@consumerbankers.com or 202-552-6368 should you need anything further.

Sincerely,



David Pommerehn
Associate General Counsel and Vice President
Consumer Bankers Association