Request for Information: CFPB Consumer Complaint Database
Docket Number CFPB-2015-0013

May 26, 2015

Dear Director Cordray,

Thank you for the opportunity to comment on proposed updates to the CFPB complaint process and once again for making the public complaint database far more useful by adding narratives to the system. The CFPB’s complaint system is a critical tool that helps inform regulators about the financial practices affecting people across the country, and helps ensure that the CFPB’s enforcement, supervision, and rulemaking are effective. The system can also provide individuals with a method of resolving important disputes with their financial institution when they are unable to do so on their own despite their best efforts.

One of the most important aspects of the CFPB consumer complaint process is that it facilitates responses to individual complaints, creating a valuable tool to increase the accountability of financial institutions. It also allows the Bureau to identify problems and where appropriate effect change based on issues raised by complaint filers. The complaint process also provides financial institutions the opportunity to publicly disagree with consumers, for example, by asserting a claim that a complaint is factually inaccurate.

The undersigned consumer, civil rights, privacy, community and fair lending organizations believe that the following recommendations would assist in improving the Bureau’s already valuable process for consumers and their advocates.

Disputes and a satisfaction rating scale

It is vital that the CFPB continue to view the complaint process as one through which people can obtain meaningful relief. Without this possibility, advocates and individuals pressed for time and resources will not file complaints in the same volume, and the CFPB will not receive helpful information about the practices affecting those most impacted by unfair, deceptive, abusive, or otherwise unlawful behavior.

An effective dispute process allows complaint filers to engage with the CFPB and the company. It gives individuals an avenue to formally disagree with a company’s response to their complaint, ensuring that filers can object to and get answers about unresponsive, unclear, or improper company replies. It will allow the CFPB to close
We believe that the automatic Bureau review to examine if a pattern of unacceptable practices exists.

While we strongly support a dispute function in the CFPB complaint process, the fact is that the current dispute portion of the process is not operating as such. Complaint filers are often unaware that the dispute option exists. It has worked as more of a notification system to the Bureau that a dispute still remains, rather than an opportunity for consumers to continue to seek redress for an ongoing problem. Maintaining the current dispute process may in fact hurt the Bureau’s reputation with consumers. The current system can create an expectation that the Bureau will address a “disputed” problem directly or that there will be further action on the company’s part - neither of which is necessarily accurate - leading to frustration and dissatisfaction. Confusion as to the benefits of disputing a result can also lead to under (or even over) reporting of the actual levels of dissatisfaction with company responses.

As stated, we encourage the Bureau to strengthen its dispute process. We also support the CFPB’s suggestion to include a satisfaction rating scale (from 1-5) but only if the scale includes a narrative section, as proposed, that allows consumers to explain their rating, i.e. detailing that the company never responded to the original complaint, denied any wrongdoing and ignored the problem, promised to remove negative information from a credit report but didn’t follow through, etc. If appropriate, consumers should be able to dispute the result or otherwise request further intervention.

It is essential that the narrative portion of the rating be included in the public complaint database. Including a rating scale with a narrative section as the latter part of the complaint process will help to ensure that the Bureau responds to consumer complaints appropriately, and be confident that consumers are being given an automatic opportunity to provide feedback on a complaint’s status, as well as alert the CFPB to ongoing problems with a company.

Companies that repeatedly receive top ratings could be publicized as such. This could incent companies to provide top-level customer service as well as give corporations an opportunity to shine publicly and promote the positive information consumers can share in the narrative feedback section.

The CFPB should regularly report on consumer satisfaction scales identifying specific companies’ ratings including both those with the highest and lowest performance records, as well as describing consumers’ key reasons for giving the ratings that they do. We strongly recommend that any company that receives low or negative ratings for more than 20% of consumer responses should trigger an automatic Bureau review to examine if a pattern of unacceptable practices exists. We believe that the Bureau will be able to adjust this number as the program goes
forward, based on analysis of how a firm’s low or negative ratings numbers compare to those of other firms of comparable size in its market.

**Disclose complaints not currently included in public complaint database**

All consumers who have gone to the effort to complain to the CFPB should be confident that their complaints will be examined, captured and categorized by the Bureau, transmitted to the appropriate company, and responded to by the Bureau and the company, in a timely manner. There should be no exceptions for complaints that are in litigation, complaints that are ultimately transferred to other federal agencies, or complaints that are submitted by third parties on behalf of consumers, with consumer consent. Complaints that fall into these categories not currently included in the public database skew overall complaint tallies and may inadvertently mask emerging problems that deserve Bureau and public attention.

The issue of including cases in litigation is particularly important with regard to mortgages and foreclosures because in judicial foreclosure states consumers attempting to navigate the loss mitigation process are often technically “in litigation.” This is precisely the period when violations of the servicing standards, and other loss mitigation problems are likely to occur. Failing to include such alleged servicing violations in the CFPB complaints database effectively gives mortgage servicers in judicial foreclosure states license to violate servicing rules without those problems ever emerging in the complaint system. There are of course many other situations where consumers may be in litigation. The negative implications of excluding "in-litigation" complaints from the CFPB database and resolution process extend to other complaint areas as well, such as debt collection which the CFPB has found to constitute the highest number of consumer complaints.

We urge the Bureau to include all submitted complaints in the public database, as well as to set expectations for companies to address all complaints thoroughly. Companies may opt not to publicly respond to a complaint outside of litigation but that should not prevent the Bureau from counting and publicly reporting on these potentially harmful practices.

**Third party assistance**

Lastly, we recommend that complaints submitted by authorized third parties should also be included in the complaint database, with the consent of the complainant. Some consumers prefer the expert support of an advocate when complaining to a government agency. Some consumers with limited English proficiency or elderly consumers need assistance describing their complaint accurately. In addition, not all consumers have access to the Internet and must rely on a third party to submit a complaint online. The third party could check off a box certifying that the consumer authorizes that the complaint be included in the public database when a grievance is filed.
It is standard practice for counselors and attorneys to require clients to sign a release form when the advocate is providing the client’s information to an outside party. The Bureau could develop a companion standardized form that counselors, attorneys and other authorized parties could complete online certifying that they had obtained the consumer’s consent to file the complaint and allow the CFPB to publish the complaint information. However, the form should be a model only, and any reasonable letter or form that indicates consumer permission should be accepted.

The proposed additions to the CFPB consumer complaint process would elevate an already critical system to a still greater level of consumer protection and empowerment.

Thank you for considering our recommendations. Please direct any questions to ruth.susswein@consumer-action.org.

Sincerely,

Americans for Financial Reform
California Reinvestment Coalition
Center for Digital Democracy
Center for Economic Justice
Community Legal Services, Philadelphia (on behalf of its low income clients)
Connecticut Fair Housing Center
Consumer Action
Consumer Federation of America
Consumers Union
Empire Justice Center
Legal Services NYC
MFY Legal Services, Inc.
NAACP
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
National Fair Housing Alliance
National Housing Resource Center
National People’s Action
New Economy Project
New Jersey Citizen Action
Privacy Rights Clearinghouse
Public Citizen
Southeastern Ohio Legal Services
U.S.PIRG
Woodstock Institute