CFPB IN OUR COMMUNITIES

Advocates Reflect On The Consumer Bureau's Role In Achieving Justice For Consumers: An Online Survey

National Association of Consumer Advocates
February 2018

Acknowledgments

The report was written by Christine Hines, Legislative Director of the National Association of Consumer Advocates. Members of NACA's Legislative Policy Committee provided guidance with the survey contents. Carter Dougherty, Communications Director of the Americans for Financial Reform, provided review, commentary, and invaluable advice. We gratefully acknowledge the advocates who responded to the survey and who shared consumer stories, and particularly Sarah White, staff attorney at Connecticut Fair Housing Center, and Stuart Paynter of The Paynter Law Firm, PLLC, whose client stories are included in this report.

About the National Association of Consumer Advocates

The National Association of Consumer Advocates (NACA) is a nonprofit association of attorney members and consumer advocates who represent hundreds of thousands of consumers victimized by fraudulent, abusive, and predatory business practices. Its members are private and public sector attorneys, legal services attorneys, law professors, and law students whose primary focus is the protection and representation of consumers. NACA's members and their clients are actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

Introduction

In December 2017, the National Association of Consumer Advocates conducted an online survey to understand how attorneys and advocates, who represent consumers in the financial marketplace, interact with the Consumer Financial Protection Bureau. Responses were accepted until January 4. The survey results show that consumers and their advocates enforce and rely on the CFPB's work in resolving private disputes with financial institutions, and simultaneously, regularly alert the bureau of new and growing predatory practices in their communities across the country that the agency can then investigate and take action on.

Congress created the CFPB in 2010 after the 2008 financial crisis, which had exposed widespread predatory lending and abuses against homeowners and millions of other borrowers and users of financial products. The Dodd-Frank Wall Street Reform and Consumer Protection Act gave the new agency the power to monitor and provide safeguards for consumers against unfair and illegal business practices.

The bureau can investigate financial institutions, take them to court for violating consumer laws, impose penalties for their misconduct, require bad actors to provide refunds and other remedies to their victims, write rules and guidance to ensure minimum fair behavior in the financial market, allow consumers to file complaints about institutions that may have harmed them, and issue materials to educate consumers about products and services.

The survey was sent to private and nonprofit attorneys, legal services attorneys, and law professors, all representing consumers' interests, and especially low-income consumers, against unfair and illegal business practices. None of the survey questions inquired about CFPB's leadership.

Overall

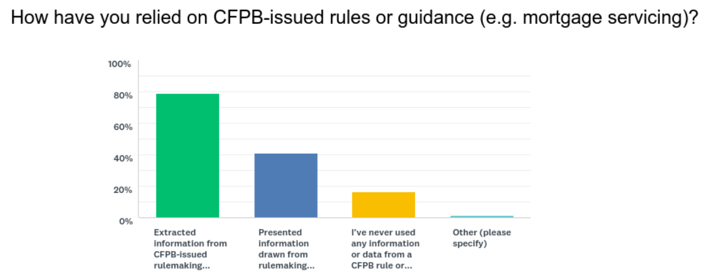
The CFPB has grown to become a key tool for consumers with disputes against financial institutions, with **96 percent** of respondents rating the CFPB as very helpful (**76 percent**) and somewhat helpful (**20 percent**) in their representation of their clients; and **98 percent** said they had visited the CFPB's website in their work on behalf of consumers. **Every** responding legal services attorney, i.e. advocates who provide free, civil legal assistance to eligible low-income people, reported that the CFPB has been helpful in their work; **86 percent** of them contend it is "very helpful," and all had visited the agency's website.

The survey also revealed respondents' avid use of the consumer complaint system, strong appreciation for the enforcement actions, and significant reliance on agency-issued rules as safeguards for consumers caught in disagreements with powerful lenders, servicers, and banks.

Post-Crisis Rules – Tools for Advocates

CFPB's role in establishing fair rules of the road for mortgage lending and other consumer finance sectors was crucial to recovering from the financial crisis. The rules' impact on ordinary people across the country has been categorical.

In the survey, **79 percent** of respondents said they have extracted information from CFPB-issued rulemaking or guidance on behalf of their consumer-clients. And **40 percent** have presented information that was drawn from CFPB rules or guidance to a court on behalf of their consumer-clients.



In their comments, respondents highlighted their use of CFPB's mortgage rules under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z), more than any other. These rules implemented Dodd-Frank Act sections providing needed protections for mortgage loan borrowers in their interactions with servicers, and specific obligations for servicers to carry out to ensure minimum fair treatment of their customers.

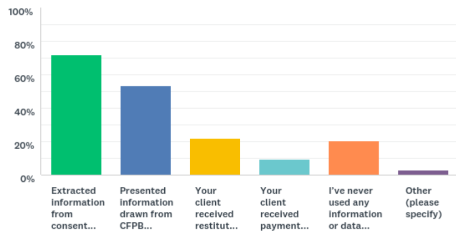
CFPB Enforcement of Laws Have a Practical Benefit

The bureau is also tasked with ensuring that financial institutions – lenders, credit reporting agencies, debt collectors, payment processors, and others – follow existing consumer laws, and it is authorized to take action against those who don't. Consumers have been direct beneficiaries of the bureau's work, the agency having returned $12 billion in monetary compensation and other remedies to consumers from its supervisory and enforcement work.

When asked about their interactions with CFPB enforcement actions, **72 percent of survey respondents** said they have scooped up information from enforcement consent orders to use for the benefit of their consumer-clients. And **53 percent** have presented information drawn from a CFPB enforcement complaint or consent order to a court on behalf of consumers in disputes with financial institutions.

Respondents also have represented consumers who benefited directly from the bureau's enforcement actions, including **21percent** of survey respondents who reported that their clients received restitution or other relief from a financial institution as a result of a CFPB enforcement action, and **9 percent** whose clients received payments directly from CFPB's victim compensation fund stemming from an enforcement action.

How have you interacted with CFPB's enforcement actions and resulting payments to harmed consumers?:



In their comments, survey respondents listed a variety of CFPB actions that have helped their consumer-clients troubled by financial institutions, including law enforcement against debt collectors and debt buyers for illegally attempting to collect debt that may have been inaccurate or unenforceable, and wrongly filing, and threatening to file, debt collection action lawsuits. Respondents also listed CFPB actions against credit reporting agencies for deceptively marketing credit scores and credit-related products; against mortgage servicers for mistreating distressed mortgage borrowers who feared losing their home to foreclosure; and against student loan trusts for filing illegal debt collection lawsuits against borrowers of private student loans. Respondents mentioned many other actions that have helped ordinary people whose interests the advocates represented.

Amrish Rajagopalan, a North Carolina resident is an electrical engineer who signed up for debt settlement services with an entity called First Rate Debt Solutions, to help him manage repayment of his debt after he lost his job. The transaction included an agreement with a payment processor Noteworld (now known as Meracord), which established an account for Rajagopalan and withdrew funds for the services from his account.[1]

In a 2011 legal complaint filed in a federal district court in Washington State against Noteworld (now Meracord), Rajagopalan alleged that Meracord withdrew more than $8,200 in monthly fees from his accounts for almost a year but that there was no progress made in settling his debts. In fact, his complaint alleged that no settlements with creditors were ever negotiated on his behalf. The payment processor Meracord allegedly knew that "services" were not provided at all yet continued to withdraw funds from Rajagopalan's account, according to his complaint. Under Federal Trade Commission regulations, it is illegal for debt settlement companies to charge upfront fees before services are provided; and illegal to deceive consumers on the actual "services" provided. He alleged that Meracord violated the federal Racketeer Influenced Corrupt Organizations Act by conspiring, along with debt settlement companies, to defraud indebted consumers.

In 2013, the CFPB and the FTC announced an enforcement action and consent order against the payment processor Meracord for facilitating withdrawal of funds relating to illegal activities, particularly the scheme of charging fees upfront without providing any debt settlement services.

[1] Complaint, *Rajagopalan v. Noteworld, LLC*, No. 3:11-cv-05574 (W.D. Wash.), filed 2011.

The CFPB/FTC enforcement action, which was also brought in a Washington federal district court, contained claims similar to Mr. Rajagopalan's allegations in the private suit. Under the consent order, Meracord and its owner Linda Remsberg were barred from processing payments for debt-settlement companies, were subject to monitoring by the CFPB, and were required to pay a civil money penalty.[2]

CFPB's action helped thousands of Meracord victims; and saved others from future harm that would have been caused by the company's continued facilitation of deceptive and illegal debt settlement practices.

Complaint Database – A Place to Send Grievances

A serious complaint to the bureau can go a long way. The CFPB's online, public complaint system allows consumers to share their grievances against financial institutions, and provides the businesses with an avenue to respond. Further, the public nature of the complaint system alerts not only the CFPB, but also the public of potential patterns of questionable practices in the marketplace.

Survey findings reveal that **69 percent** of respondents had reviewed complaints posted to the database for their clients, while **48 percent** said they had submitted complaints against financial institutions to the complaint system on behalf of their clients. **Twenty-three percent** said they have submitted complaints that were resolved in their clients' favor. Meanwhile, a significantly high proportion of responding legal services attorneys (**74 percent**) reported that they had submitted complaints to the CFPB for their consumer-clients, while **42 percent** said that a complaint submitted to the database was resolved in the client's favor. In their comments, respondents also mentioned that they advise consumers to submit complaints themselves to the bureau.

Sally Horvath of Connecticut filed a complaint with the CFPB against her mortgage servicer, Seterus, Inc., in December 2017, and the complaint helped save her home. Ms. Horvath is one of millions of homeowners who struggled to pay their mortgages, or lost their homes outright, after the fallout of the 2007-2008 financial crisis. According to Ms. Horvath's complaint, Seterus attempted to foreclose on her home while it was considering her application for a loan modification, a tactic called "dual tracking," which is illegal under CFPB mortgage servicing rules.[3]

According to Ms. Horvath, she began a process with Seterus, in late 2016 to modify her loan terms and help put her in a better position to make payments. She alleged that she received and completed a trial modification of her loan from Seterus. The servicer then offered her a permanent loan modification, which, she said in her complaint, she had accepted and returned to

[2] Consumer Financial Protection Bureau, *CFPB Takes Action Against Meracord for Processing Illegal Debt-Settlement Fees*, Oct 3, 2013, http://bit.ly/2nzWXAg.
[3] Sally Horvath, *Complaint to the CFPB*, December 12, 2017.

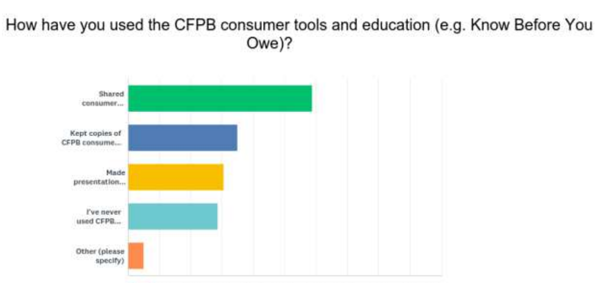
Seterus. But Seterus, according to Ms. Horvath, served her with a foreclosure lawsuit the day after she received the offer for the permanent loan modification. Ms. Horvath also claimed that the servicer charged her nearly $1,300 in foreclosure costs and fees, which appeared on her mortgage account.[4]

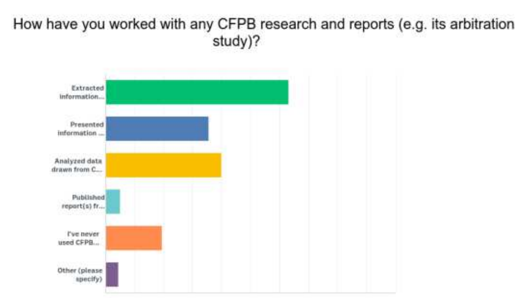
Ms. Horvath submitted her complaint to the CFPB with assistance from the Connecticut Fair Housing Center, a nonprofit organization that provides free legal services to residents. In January 2018, Ms. Horvath received a response from the mortgage servicer's counsel, acknowledging a "miscommunication."[5] Seterus agreed to remove the foreclosure fees from Ms. Horvath's account and sent her a $500 check for any "inconvenience expense." It also said in its response that it had reviewed other loans for similar mistakes and provided retraining to its legal counsel on illegal dual-tracking.[6]

CFPB Research, Reports, and Population-Specific Services

The bureau regularly releases research and reports on financial products and services, some of which are statutorily mandated by the Dodd-Frank Act, and others initiated by the bureau itself to evaluate consumers' interactions with certain sectors. It also provides tools and materials to address concerns of specific populations, such as students, older Americans, and servicemembers, and releases general educational toolkits to help consumers cope with specific financial issues, such as debt collection and auto loans.

Survey respondents reported turning to these CFPB resources to aid their consumer clients, including **63 percent** of respondents who have extracted information from CFPB research and reports to help their consumer-clients, and **59 percent** who revealed that they have shared consumer toolkits and educational materials from CFPB's website about a specific topic with their clients.





Among population-specific resources, **41 percent** of respondents reported using the bureau's student-loan borrower materials for their clients, while **40 percent** turned to resources for older adults, and **27 percent** used CFPB materials focused on servicemembers**. Thirty-seven percent**

[4] Id.
[5] Letter from Susan E. Reid to Sarah White, January 12, 2018.
[6] Id.

of respondents said they had never used CFPB services and products focused on particular populations, making them the least utilized resource by the survey participants.

CFPB Impact on Legal Aid for Financially Distressed Consumers

Legal services attorneys make up **31 percent** of respondents to the survey. These advocates, who provide free legal aid to eligible individuals of modest means, represent veterans, servicemembers, seniors, homeowners, victims of domestic abuse, and working families. In consumer financial services, they assist individuals and their families to protect and enforce their rights when confronted with distressing issues such as reverse mortgages, wrongful foreclosures, abusive debt collection practices, inaccurate and illegal credit reporting and employment background checks, landlord-tenant abuses, and predatory lending debt traps. These examples of risky and fraudulent conduct disproportionately harm low-income individuals and families, further aggravating their financial condition.

The survey shows that this group of survey respondents in particular engages frequently with the bureau's work on behalf of their clients. In addition to their high submission of complaints to the CFPB, **74 percent** of responding legal services attorneys reported that they have extracted information from consent orders from enforcement actions in their work, and **92 percent** have taken information from CFPB rulemaking or guidance to help their consumer-clients.

The bureau's consumer toolkits and educational materials are also widely used by respondents, with **70 percent** reporting that they have shared consumer toolkits and educational materials from CFPB's website about a specific topic with a client, and **50 percent** have kept copies of CFPB consumer financial toolkits and other information in their offices for clients to take with them.

The needs of Americans eligible for legal services far outweigh the number of advocates and limited resources, which helps to explain why the CFPB is important for legal aid work that addresses consumer finance issues. The agency simply has become a critical additional resource for millions of Americans overwhelmed by financial challenges.

Conclusion

The survey results show that the CFPB's interaction with American consumers is a two-way street. It is a fully developed resource for Americans facing disputes that arise from their dealings with financial institutions. All aspects of the agency touch on and provide a measure of relief to consumers and communities, especially low-income people, across the country. Simultaneously, consumers are also resources for the bureau and other members of the public as the agency has empowered them to share their experiences and help identify and root out harmful practices. The bureau benefits consumers directly, and indirectly, as it uses their data to further its work.

The survey results indicate that the bureau in its nearly seven-year existence has been successfully fulfilling its mission to protect financial consumers in its enforcement of laws; issuance of rules to guide the marketplace; preparation of research reports and educational tools; targeted resources on specific populations; and maintenance of its public complaint system. Given the ongoing threat of risky financial conduct, the CFPB should uphold or even strengthen its existing functions for the benefit of American consumers.