

Director Richard Cordray
Bureau of Consumer Financial Protection
1700 G. St. N.W.
Washington D.C. 20006

CFPB CREDIT CARD COMPLAINT DATABASE COMMENTS
Docket No. CFPB-2011-0040

January 30, 2012

Dear Director Cordray:

We the undersigned consumer, civil rights, privacy, open government groups, and members of Americans for Financial Reform (AFR), welcome the CFPB's decision to propose a policy that creates a publicly accessible complaint database. We have long supported a system that balances transparency for consumers with privacy protections for individuals. We believe the system works best when people can use other consumers' first-hand experience as a tool to make wise financial decisions.

Consumers value the ability to access a user-friendly, searchable system that allows them to research companies, specific complaint types and/or actual products or services. Such a system helps create a competitive, well functioning marketplace for individuals and corporations alike. Companies with strong records of standing behind their products and services will also benefit from a publicly searchable database.

We appreciate your willingness to consider practical ways to make narrative information available to the public. Allowing individuals to review actual complaint information gives the reader a fuller understanding of the problem, and of the company's response, information they can use to make more informed decisions. It also permits people to make their own judgments about the validity of a complaint and the credibility of the complainant. Therefore, we strongly recommend that consumer narratives be included in the database.

We support the CFPB's intent to protect consumers' personal information. We recognize the need for caution in releasing complaint information that may inadvertently contain personal or sensitive information and concur that meaningful steps must be taken to protect that data. We believe that it is possible to inform the public of complaint details without putting an individual's personally identifiable information at risk.

Sharing Narrative Data

We suggest a practical approach toward sharing narrative data with the public, consisting of three components:

- 1- a default rule that narratives will be placed in the database

2- an option for the consumer to submit information that the agency should keep confidential and

3- the use of search algorithms and staff reviews where necessary to monitor public narrative submissions for private information that should not be placed in the public database. We elaborate on these components below.

The form for submitting complaints should present a box for narrative text entry in a manner that makes clear it is for anonymous submissions to a public database. Below the main narrative text box, the agency should provide another box for entering information that consumers would like the agency to keep private.

The first box could be labeled along the following lines:

Describe what happened so we can understand the issue. Your story will be included in an anonymous, public database so that other consumers can see it. Do not include account numbers, Social Security Numbers, or other information that you do not want posted on consumerfinance.gov.

The subsequent box could be labeled along the following lines:

Is there anything you want to say that we should keep confidential? Nothing in this box will be included in the database.

The second box also should include a warning that some information entered there could be disclosed to a third party who requests it under FOIA, but that personally identifiable information, such as SSN or account numbers, would not be disclosed. Consumers who choose not to share any complaint information publicly may post their full complaint in the “confidential” box.

Generally, companies should have no expectation that their response to a consumer’s public complaint will remain private. In cases where a company believes it is necessary to include confidential data in a response they too could have the option of a private portion of the response. Businesses can summarize their position for the public database, and state that in fairness to their customer they have opted to respond in detail privately. However, any box containing a business’s private response should carry a clear disclaimer that the CFPB retains the right to disclose information entered in the “private” box to the maximum extent permitted by law, including the Freedom of Information Act.

Finally, as a safeguard against posting private information accidentally included in public narratives, the agency should use a search algorithm to search for likely instances of personal information—for example personal names, street names, or strings of numbers that could be social security or account numbers. If the search algorithm detects such information when a consumer (or a company) submits complaint details, it should flag the issue and ask the consumer, or company, to

ensure that the narrative doesn't include that type of information. CFPB staff could review submissions flagged by the algorithm even after the consumer has given the complaint a second look.

We believe this approach allows narrative information to be disclosed publicly with minimal risk that any private information will be revealed.

Database Disclosure

We would suggest that more detailed content be added to what complaint information is available for disclosure. The policy proposes to identify the type and date of the complaint, the issuer involved, and the complainant's zip code. For greatest value, we would suggest allowing consumers to search by city and census tract as well, given that zip codes in some parts of the country can cover too broad an area to be useful for analysis. The ability to connect complaint data with census data will allow the CFPB and other researchers to incorporate information that is standard practice in many public data sets, and a vital tool for uncovering discriminatory practices.

Protected class information, such as race, ethnicity, gender, primary language and age data, should also be requested from complainants for voluntary contribution. This data too should be part of the publicly searchable database. This is particularly important because it is often only in the aggregate, and with comparative information that abuses and discrimination may be visible.

Additionally, we counsel the CFPB to provide clear, sortable data categories for both complaints and resolutions to make the information as useful as possible.

We recommend that the Bureau allow multiple, granular complaint and resolution categories for each complaint in the database because disputes rarely involve just one problem. For example, a cardholder in a billing dispute with a credit card company over merchant fraud might withhold payment until the dispute is resolved. The issuer might subsequently sell the debt to a debt buyer who would sue the cardholder, with no resolution to the dispute. That complaint should be tagged "billing dispute", with subcategories such as "merchant dispute", "merchant fraud", "customer service runaround," and should also be tagged "debt buyer," "debt collection," and "legal collection." Fee complaints could be broken down to include "Late fee": size of, frequency, when imposed, etc.

CFPB staff could tag complaints with additional categories as they work to resolve them and uncover new information from borrowers and issuers. Database information should be updated daily, with limited lag time (i.e. 10 days) for a company to respond and resolve a problem.

We support the policy's proposal to include "whether and how an issuer responded" to a consumer's complaint in the searchable database. How a company handles

problems that inevitably arise is central to the financial decision making process. It will be important to have sufficient range and specificity of categories of response to actually convey information about the disposition of complaints. For example, it would be helpful to be able to distinguish kinds of actions like refunds, forgiveness of debt, rate reduction, etc. Complaint resolution data should also indicate whether the person who filed a complaint was satisfied with the resolution.

- For each complaint made public, the CFPB should disclose what resolution the issuer offered, if that resolution was satisfactory to the borrower, and how long it took the issuer to reach the resolution
- When searching the database by issuer or for all complaints, what percentage of consumers were offered what types of complaint resolutions (For example, 14% full refund, 2% forgiveness of debt, 42% interest rate reduction, 64% elimination of fee(s), 26% extra 12 months to repay balance from XYZ bank. etc.)
- What percentage of complaints was filed in this category of complaint (ex. late fee, rate hike, discrimination) by company
- What percentage of complaints, per category, was filed against a particular company

Consumers could search the database by selecting the categories, resolution outcomes or subcategories that they are most concerned about, with the option to combine that data with a particular company's name, their location and other variables.

For problems that remain unresolved, consumers who search the database should be able to access the primary reasons why complaints remain in dispute.

It would also be helpful to have data on:

When in the process did the resolution breakdown? Did the company even attempt to solve the problem? How often do disputes go unresolved with this company? Was the breakdown over money, liability, or other specific terms? The public should not have to wait for the Bureau to create periodic reports to be able to learn from this important information.

We agree with the Bureau that information should be provided to allow consumers to see numbers and types of complaints in the context of information about the company's market presence and market share. The Department of Transportation's Airline complaints system, for example compares lost luggage complaints to the total number of passengers, and the number of flights flown.

Built into the complaint system should be a periodic review of the actual complaint process to be sure that the system is working as expected. Thus, we suggest a system for the CFPB to interview or "sample" consumers for whom the companies reported that their complaints were resolved, as well as those who did not obtain a resolution.

Public Access Breeds Accountability

Public access to consumers' complaints can help empower individuals to make smart decisions upfront, and save the CFPB time and money by helping consumers avoid potential problems. It allows individuals to draw their own conclusions from the data. Consumers who identify a company with disreputable lending practices or poor complaint resolution results can harness the power of the purse to protect themselves, and reward those businesses that provide excellent customer service. Public access to consumer complaint data also allows academics, researchers and others to assist the agency in spotting harmful trends and patterns before they have embedded themselves in a system.

We congratulate the Bureau for standing on the side of transparency and efficiency by proposing to create a publicly searchable credit card complaint database. We hope that the approach to the database, including the modifications proposed in this letter, will be used to provide information about other types of complaints that the CFPB will handle in the future.

With access to more detailed information, the CFPB proposal to make complaint data publicly available can be the means to creating a more understandable and accountable marketplace.

Sincerely,

Americans for Financial Reform
Consumer Action
Consumer Federation of America
Consumers Union
Center for Digital Democracy
Center for Financial Privacy and Human Rights
Empire Justice Center
NAACP
National Association of Consumer Advocates
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low income clients)
National Fair Housing Alliance
Neighborhood Economic Development Advocacy Project (NEDAP)
New Jersey Citizen Action
OMB Watch
Privacy Rights Clearinghouse
Project On Government Oversight
Public Citizen
The Institute for College Access and Success and its Project on Student Debt
U.S. PIRG
World Privacy Forum