



MORTGAGE BANKERS ASSOCIATION

June 4, 2018

Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street, NW
Washington, DC 20522

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

Dear Ms. Jackson,

The Mortgage Bankers Association¹ appreciates the opportunity to comment on this Request for Information (RFI) from the Bureau of Consumer Financial Protection (BCFP). In addition to offering the comments below on Bureau Public Reporting Practices of Consumer Complaint Information, MBA would like to reiterate our belief in the need for a thorough reexamination of the Bureau's operations and practices after a half decade in operation. MBA released *CFPB 2.0: Advancing Consumer Protection* in September 2017 to outline key considerations for the Bureau as it begins to think about the next five years.² In brief, MBA recommended that:

- BCFP end “regulation by enforcement” by issuing guidance to facilitate compliance rather than relying on fact-specific enforcement actions to announce new regulatory interpretations.
- BCFP communicate clearly when and how it plans to offer compliance guidance and acknowledge that it is bound by the guidance it releases.
- BCFP provide more due process protections in its enforcement actions to ensure fairness and consistency.

These larger, thematic concerns run through all Bureau operations and therefore are a theme of each of the RFIs released to date. The RFI process can be a crucial starting point to gather the information necessary to determine how to best orient the BCFP's future direction to ensure it serves consumer and creates access to financial opportunity. MBA applauds this and the additional RFIs to the extent that they are the beginning of this important conversation.

The Bureau's public reporting practices of consumer complaint information is an appropriate topic for the RFI initiative. MBA supports the BCFP's efforts to help consumers make informed, responsible financial

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage-lending field. For additional information, visit MBA's website: www.mba.org.

² Available here: <https://www.mba.org/issues/cfpb-20-advancing-consumer-protection>

choices and its creation of a portal to allow companies an opportunity to address complaints from consumers filed with the BCFP. However, it is not clear that posting unsubstantiated complaints is an effective use of the BCFP's time or resources. The Bureau has yet to release information indicating if, or how, consumers actually use the Consumer Complaint Database ("Complaint Database" or "Database"), outside of engagement with a complaint respondent.

This RFI offers a valuable opportunity to step back and reconsider the statutorily mandated objectives the Bureau ostensibly seeks to achieve through the Complaint Database. As the Bureau has repeatedly indicated, the purpose of the public-facing Consumer Complaint Database is to provide consumers with "timely and understandable information" to inform their financial decision making.³ While the goal of helping consumers make informed financial decisions should be commended, publicly disclosing unverified, frequently old consumer complaint information without context has the opposite effect. It misleads consumers and causes unfair reputational harm to companies.

The comments contained in this letter are directed at these concerns. The best and most appropriate avenue to achieve results would be the removal of the public-facing Complaint Database. Should the Bureau decide to continue to go far beyond the requirements of Dodd-Frank to maintain a public-facing database, it should remove the complaint narratives. If the Bureau is unable to remove the comments, it should adopt procedures to verify the accuracy of the information contained in the narratives before they are publicly displayed. Finally, the letter concludes with various recommendations to improve the database in ways that make it more useful for consumers and fair to companies.

I. Withdraw the Public-Facing Complaint Database

The Database Exceeds the BCFP's Statutory Authority

The public-facing Consumer Complaint Database exceeds the BCFP's statutory authority. Under the Dodd-Frank Act, the Bureau has the authority to establish a database to "facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products and services."⁴ Unlike most aspects of the consumer complaint system, which are mentioned only briefly,⁵ the Act includes considerable detail describing the *limited* circumstances and methods in which the Bureau may share consumer complaint information.^{6,7} Specifically, complaint data may be shared:

"with prudential regulators, the Federal Trade Commission, other Federal agencies, and State agencies[,...][t]o facilitate preparation of the reports required under subparagraph (C)[,]" where subparagraph C describes certain reports to Congress and the President; "supervision and

³ Disclosure of Consumer Complaint Narrative Data, 79 Fed. Reg. 42765, 42766.

⁴ 12 U.S.C. § 5493(b)(3)(A).

⁵ For example, the statute describes the Bureau's authority with respect to the system, the purpose of the system, the complaint collection process, the complaint response process, etc. See 12 U.S.C. § 5493(b)(3) and 12 U.S.C. § 5534(a).

⁶ 12 U.S.C. § 5493(b)(3)(C)-(D).

⁷ Sharing of consumer complaint information must adhere to the "standards applicable to Federal agencies for protection of the confidentiality of personally identifiable information and for data security and integrity." 12 U.S.C. § 5493(b)(3)(D).

enforcement activities[;] and monitoring of the market for consumer financial products and services[.]”⁸

It is worth noting the explicit statutory limitation on usage of the complaint data governs sharing with *other federal agencies*. The ability to share individual consumer complaint information on a public-facing database is not one of the explicitly listed circumstances in which the Bureau may share consumer complaint information. It is quite the leap to believe that a statute which sets delineated limits on sharing complaint data with other regulators contemplates the maintenance of a public facing database of unverified information.

Despite the presence in Dodd-Frank of two provisions that *specifically and thoroughly* address a consumer complaint structure,⁹ , the Bureau turns to Section 5512 (titled *Rulemaking authority*) and Section 5511 (titled *Purpose, objectives, and functions*) to support its decision to create a public-facing complaint database. The Bureau’s indirect and shaky justifications based on these Sections are unconvincing.¹⁰

First, the Bureau argues that public disclosure is authorized under Section 5512(c)(3)(B) of the Dodd-Frank Act, a provision which provides authority to publicly disclose complaint information using aggregate reports or “other appropriate formats designed to protect confidential information.” The Bureau’s reliance on this provision to support publicly disclosing complaint information is tenuous. The provision is titled *Rulemaking authority* and, as the title suggests, it deals with the Bureau’s general rulemaking authority. Consumer complaints are mentioned as one of the sources of information with which the Bureau may conduct its “monitoring and assessment” activities.¹¹ These monitoring and assessment functions are discussed with respect to how they support the Bureau’s rulemaking authority, and not in the context of the Bureau’s responsibilities with respect to consumer complaints.¹²

Next, the Bureau argues that public disclosure is a permissible exercise of its authority to act in a way that ensures consumers are provided with “timely and understandable information to make responsible decisions about financial transactions[.]”¹³ The Bureau has yet to present data to support its contention that publicly disclosing individual consumer complaint information, an act not included among the disclosures specifically authorized by Dodd-Frank, provides consumers with more “understandable information” with which “to make responsible decisions about financial transactions.” Rather than helping consumers make informed financial decisions, the Bureau’s Complaint Database has the opposite effect. As the Bureau has acknowledged, the Database may mislead consumers (“some consumers may draw (or be led to) erroneous conclusions from the data”).¹⁴

The Complaint Database misleads consumers

The Complaint Database lacks the context necessary to normalize the data. The Database merely shows the number of complaints filed. This information has little value without appropriate contextual information.

⁸ 12 U.S.C. § 5493(b)(3)(D).

⁹ See Section 5493(b)(3) and Section 5534 of Dodd-Frank.

¹⁰ See Disclosure of Consumer Complaint Narrative Data, 80 Fed. Reg. 15572; Disclosure of Consumer Complaint Data, 78 Fed. Reg. 21218.

¹¹ 12 U.S.C. § 5512 (c)(4)(B)(i).

¹² See 12 U.S.C. § 5512.

¹³ 12 U.S.C. § 5511(b)(1).

¹⁴ Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. 37558, 37562.

For the mortgage industry, details such as company volume and portfolio characteristics provide critical background information. The Bureau appears to understand the importance of context¹⁵ but does nothing to meaningfully provide it. Without this information, consumers are unable to use complaint volume data to compare financial products and services because the comparison is not an apples-to-apples comparison.

In addition to lacking context, the Database is far from a neutral public forum and thus incapable of providing a balanced, representative view. It is a *complaint* database, i.e. it is designed specifically to solicit reports of negative experiences. The Complaint Database is not a forum for compliments or positive feedback. This bias diminishes the utility it provides as a basis for making an informed choice. One may assume that neutral forums offered by private sector sites provide less skewed, more balanced information, and are therefore more useful to the consumer than the negatively skewed information found on the Complaint Database.

The Complaint Database unfairly harms companies

As a public-facing database operated by a government agency, the Bureau of Consumer Financial Protection's Consumer Complaint Database is viewed as an authoritative source of information. Government agencies rely on the public's trust. The information they convey carries the imprimatur of the government. This is especially true for an agency charged with protecting consumers.

It follows that by publicly disclosing consumer complaints the Bureau provides those complaints with the United States government's imprimatur. Stated differently, it is reasonable to believe consumers view the Database's complaints as valid instances of misconduct simply because they are solicited, reviewed and displayed by an agency of the federal government. This is especially troubling considering the Bureau does not verify that the information contained in the complaints is accurate. Few would argue that by publishing these complaints, the Bureau causes unnecessary and unfair harm and reputational risk to the companies identified in the complaints. The Bureau agrees, stating that "there is a risk that financial institutions could incur intangible reputational damage as a result of the dissemination of complaint narratives."¹⁶

Even assuming the complaints contain accurate information, their publication still causes unjust reputational harm. The Bureau's most recent annual complaint report shows that more than 80 percent of mortgage-related complaints are resolved with the company providing a simple explanation.¹⁷ The most logical reason for this statistic is that the complaint was the result of a misunderstanding (i.e. the borrower didn't understand a particular aspect of the lending or servicing process) and not the result of any actual wrongdoing by the company. Unfortunately, these complaints — which constitute the overwhelming majority — are included in the information displayed through the Database. This paints companies in an unfairly negative light by dramatically inflating complaint statistics.

The public-facing Complaint Database is unnecessary

Finally, the Bureau's public-facing Complaint Database is unnecessary. Assuming there is a need for a public-facing consumer complaint database, that need has been filled by the private sector. Well-known websites such as *Google*, *Yelp*, *Facebook*, *Consumer Reports*, and the *Better Business Bureau* aggregate and publish consumer reviews and ratings of financial service providers. Importantly, these sites invite

¹⁵ "[C]ompany-level information should be considered in context of company size and/or market share ..." BCFP, Monthly Complaint Report (July 2016).

¹⁶ Disclosure of Consumer Complaint Narrative Data, 79 Fed. Reg. 42765, 42767.

¹⁷ BCFP, *Consumer Response Annual Report* (April, 2018), p. 44.

consumers to document their experiences regardless of whether those experiences were positive or negative and thereby provide a degree of balance that's absent from the Bureau's Complaint Database. Moreover, the sites are operated by the private sector, meaning the information they provide does not come with the implied validity accompanying information found on a government-operated site.

In conclusion, the Database exceeds the Bureau's statutory mandate. Or, as succinctly stated by Acting Director Mulvaney, Dodd-Frank does not direct the Bureau to "run a *Yelp* for financial services."¹⁸ The Database misleads consumers and unjustifiably harms businesses. Private sector services are better suited to provide consumers with the information they need to make informed financial decisions. For these reasons, MBA urges the Bureau to withdraw the Complaint Database.

II. Removal of the Complaint Narratives

If the Bureau decides to continue to go well beyond its statutory mandate from the Dodd-Frank Act and maintain the public facing Complaint Database, it should nonetheless remove the complaint narratives. Publicly disclosing individual complaint narratives does not provide consumers with reliable information or otherwise further a legitimate Bureau objective. Instead, publishing narratives increases the likelihood that consumers are misled and that companies suffer unjust reputational harm. In addition, disclosing individual complaint narratives risks compromising consumers' personal identifiable information.

Disclosing unverified complaint narratives lack probative value

Other than confirming the complainant is a customer of the company, the BCFP does nothing to verify the information included in the consumer complaint. Unverified complaint narratives are not a reliable source of information for consumers. As conceded by the Bureau in its Disclosure of Consumer Complaint Narrative Data policy statement, "narratives may contain factually incorrect information as a result of, for example, a complainant's misunderstanding or misrecollection of what happened."¹⁹ The possibility of complaint narratives with inaccurate information diminishes the usefulness of the Database as a whole. How can consumers separate accurate narratives from inaccurate narratives? Consumers are not equipped to make this determination.

It is even doubtful that accurate complaints would provide meaningful information. As previously stated, the vast majority of complaints are resolved with an explanation from the company.²⁰ What is the value of publicly disclosing these narratives? Experience shows most of these complaints would not include the company's explanation to the consumer. Even if the explanation was made public, the facts are likely too specific to be useful to anyone other than the consumer who submitted the complaint. More fundamentally, what marginal benefit is gained by using the Consumer Database in this way rather than simply visiting the company's website, calling customer service, or reviewing the account disclosures?

¹⁸ Quoting Acting Director Mick Mulvaney's comments at an April 24, 2018 American Bankers Association conference in Washington, D.C., where the Acting Director stated that statutorily, the Bureau is not required to publicly disclose consumer complaints.

¹⁹ Disclosure of Consumer Complaint Narrative Data, 79 Fed. Reg. 42765, 42767.

²⁰ BCFP, Consumer Response Annual Report (April, 2018), p. 44.

Disclosing unverified complaint narratives harm companies

As previously explained, publicly disseminating unverified consumer complaints comes with a risk that “financial institutions could incur intangible reputational damage.”²¹ Disclosing unverified complaint narratives amplifies this risk. By adding color and personality to a complaint, narratives significantly increase the complaint’s ability to influence consumers. A study cited by Forbes found that 88 percent of consumers trust online reviews as much as a personal recommendation.²² One can assume that consumer complaints with the government’s imprimatur would be at least as influential as those found on private sector sites.

While the Bureau acknowledges the risk of companies suffering unjust reputational harm, the Bureau contends that providing companies with an opportunity to publicly respond to the complaint will somehow allow consumers to identify the truth. According to the Bureau, the best approach is to release everything and hope that the truth is revealed through the “marketplace of ideas.”²³ No evidence is offered to support this claim. While the “marketplace of ideas” metaphor can reasonably describe the manner in which free and open debate fosters truth in the public forum, it is an ideal that does not apply to the Complaint Database.

The Complaint Database is not a free and open forum. Consumers simply do not have access to the information needed to verify the complaint. While the company may have this information, various privacy and legal restrictions prevent its disclosure. In addition to privacy-related restrictions, there are more practical considerations, such as an unwillingness to debate one’s customer in public—particularly if the customer is in some way at fault. As a result, the manner in which individual issues are presented is almost exclusively one-sided and thus not a “marketplace of ideas.”

Disclosing unverified complaint narratives harms consumer privacy

The Bureau’s decision to publicly disclose individual consumer complaint narratives raises significant consumer privacy concerns. Information included in the complaint narratives may include the consumer’s personally identifiable information (PII) and sensitive financial data. MBA members are concerned that disclosing complaint narratives increases consumer identification risk.²⁴

While the Bureau claims to have implemented systems to protect consumer privacy by removing PII from the published narratives, MBA questions the adequacy of these measures. In a recent article published by *CYBERSCOOP*, a Bureau spokesperson is quoted as saying “there were **233 confirmed breaches of consumer personally identifiable information** (PII) within the Bureau’s Consumer Response system by the Bureau or its contractor, and at least another 840 suspected PII breaches by financial institutions using

²¹ Disclosure of Consumer Complaint Narrative Data, 79 Fed. Reg. 42765, 42767.

²² How Important Are Customer Reviews For Online Marketing?, Jayson DeMers, (<https://www.forbes.com/sites/jaysondemers/2015/12/28/how-important-are-customer-reviews-for-online-marketing/>) (December 28, 2015).

²³ Disclosure of Consumer Complaint Narrative Data, 79 Fed. Reg. 42765, 42767.

²⁴ Complaint narratives include information such as consumer zip code, financial institution as well as a description of the underlying issue. In conjunction with other publicly accessible information, these details may facilitate consumer identification.

the company portal.”²⁵ A separate report issued by the Inspector General appears to confirm the lack of adequate data security surrounding the Complaint Database.²⁶

Given the vast quantity of personal information solicited through the Complaint Database, even a minor breach could have serious ramifications. Until the Bureau can ensure appropriate controls are in place to protect consumer PII and prevent re-identification, individual complaint narratives should be removed.

The benefits of disclosing unverified consumer complaint narratives are too small to justify the harm it causes by misleading consumers, increasing company reputational risk, and weakening consumer privacy. If the Bureau decides to continue to maintain a public facing database, it should remove individual complaint narratives.

III. Verify complaint data

Other than providing the company with an opportunity to verify that the consumer is in fact a customer, the Bureau does not verify the validity of the complaint information provided by the consumer. This is unfair to companies and increases the likelihood that complaints mislead consumers. If the Bureau decides not to remove the public facing Complaint Database, it should implement steps to verify the accuracy of the information before they are publicly disclosed.

Basic fairness weighs in favor of the Bureau verifying complaint accuracy before public disclosure. As previously stated, information displayed on the BCFP’s database carries the imprimatur of the federal government. The average consumer will rely on information because it is presented on a government website. Given that public reliance is foreseeable, the Bureau should verify the accuracy of complaint information before releasing it. Failure to do so is unfair to the consumers who rely on the complaint’s presumed accuracy and to the companies mentioned in the complaints.

Verifying complaint accuracy would also prevent the Database from being used in a manner contrary to its intended purpose. For many third-parties, submitting a “complaint” through the Complaint Database is used in an effort to delay foreclosure or challenge an adverse decision on a loan modification when the process required by BCFP rules have been exhausted. MBA members report receiving multiple “complaints” with identical language, sent within the same time period, from the same city or state. While experience with this tactic makes identifying these “complaints” easier, they nonetheless require substantial time and resources to address. It’s safe to assume that the Database’s use as an extra-judicial delay tactic was not intended and not appropriate.

²⁵ Mulvaney: CFPB hit by over 200 data 'lapses', Sean Lyngaas, (emphasis added) (www.cyberscoop.com/mick-mulvaney-cfpb-data-breach/) (April 12, 2018).

²⁶ The Inspector General’s 2015 report identified a number of concerns with the Database and found the BCFP’s data security to be “average,” scoring it a 3 out of 5. *See* Board of Governors of the Federal Reserve and Consumer Financial Protection Bureau, “Opportunities Exist to Enhance Management Controls Over the CFPB’s Consumer Complaint Database,” (<https://oig.federalreserve.gov/reports/cfpbmanagement-controls-consumer-complaint-database-sep2015.pdf>.) (Sep. 10, 2015).

IV. Improve the Complaint Database

Should the Bureau continue to post unverified complaints in a public forum, steps should be taken to improve the Complaint Database. While the Database is deeply flawed for the reasons discussed above, the following suggestions will make the Database marginally more useful for consumers and fair to companies:

- (1) Create a more appropriate disclaimer;
- (2) Remove resolved or old complaints from the public Database;
- (3) Narrow the definition of “consumer complaint;”
- (4) Extend the timeframe to respond to consumer complaints to 30 business days;
- (5) Allow companies to correct inaccurate complaint classifications;
- (6) Synchronize complaint identifiers.

1. Database Disclaimer

The current disclaimer can only be found after selecting “More about the complaint database” link located on the Consumer Complaint Database homepage. The disclaimer is brief. It begins as follows:

“We don’t verify all the facts alleged in these complaints, but we do give companies the opportunity to confirm they have a commercial relationship with the consumer before we publish the complaint in this database.”²⁷

The disclaimer is misleading. By stating that the Bureau doesn’t “verify *all* the facts alleged in these complaints[,]”²⁸ it implies that some facts are verified. This is not accurate. According to the Bureau’s 2012 Complaint Database policy statement, “the Bureau does not validate the factual allegations of complaints.”²⁹

Under the circumstances, MBA believes a more appropriate disclaimer would state, “*The Bureau does not verify the facts alleged in consumer complaints and our research shows a significant majority of complaints do not require action. Additionally, a significant percentage may be inaccurate or incomplete. The Bureau does not endorse the conclusions contained in any complaint and does not contend that any complaint is an accurate representation of a consumer experience.*” The Bureau should display the disclaimer “clearly and conspicuously” on the top of any complaint “in a font size that is no smaller than a 12 point font.”³⁰

2. Remove Resolved or Old Complaints

The Bureau has not established a process to remove complaints after they’ve been published. Even complaints that have been satisfactorily resolved remain on the Complaint Database forever. As a result, the Database includes complaints from as far back as December 2011.

Maintaining all complaints on the public-facing Complaint Database is contrary to the Bureau’s responsibility to “provide consumers with timely and understandable information about consumer financial

²⁷ See https://www.consumerfinance.gov/data-research/consumer-complaints/search/?from=0&has_narrative=true&searchField=all&searchText=&size=25&sort=created_date_desc (visited May 15, 2018).

²⁸ Emphasis added.

²⁹ Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. 37558, 37561.

³⁰ See 24 CFR §1026.19(e)(2)(ii).

products and services.” Complaints covering conduct that occurred more than two years ago do not reflect current information. The information they convey is not “timely” and therefore will not help consumers make informed financial decisions. Such outdated information is more likely to achieve the opposite and may prevent consumers from making informed financial decisions.

This policy also harms companies. It presents complaint data in a misleading manner that paints companies in an unjustifiably negative light. As of May 30, 2018, the Complaint Database displays 1,045,879 complaints.³¹ This number is prominently displayed in large font at the top of the Database’s homepage. It is frequently cited by press, presumably to imply that misconduct by financial institutions is common. Like much of the information found on the Complaint Database, it is presented without context. Who could blame the typical consumer for failing to realize that the majority of the Database’s complaints were submitted more than two years ago?

In addition, complaints that have been resolved without action beyond an explanation by the company should be removed from the Database. These complaints are more akin to questions stemming from misunderstandings. They do not meet the generally held view of complaints as indicators of wrongdoing. Displaying these complaints on the Database unfairly inflates complaint statistics and does little to improve consumer understanding.

As a general rule, complaints that have been resolved for more than 24 months should be removed from the Database. Similarly, complaints that have been resolved with an explanation should also be removed from the Database immediately.

3. *Narrow the definition of “consumer complaint”*

The Bureau should adopt a narrower definition for “consumer complaint.” Under the current definition, “[c]onsumer complaints are submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer’s personal experience with a financial product or service.”³² By using such a broad definition the Complaint Database attracts allegations of conduct that falls short of a regulatory violations or otherwise inappropriate treatment. Any negative experience, regardless of how minor the issue may be, could result in a consumer complaint. Under this definition, a consumer who experienced what they felt was a long hold during a customer service call would be justified in submitting a complaint. The fact that the vast majority of complaints are resolved with an explanation suggests this definition is over-inclusive.

Using an overly broad definition in publicly disclosed consumer complaints hurts consumers and financial service businesses. Allegations of legitimate legal violations are vastly outnumbered, and therefore diluted, by complaints expressing mere dissatisfaction. This hurts consumers by making actual issues appear less significant.

BCFP regulated companies are also hurt. The over-inclusive consumer complaint definition causes unjustifiable reputational harm by inflating complaint statistics. Companies must also investigate and

³¹ Consumer Financial Protection Bureau, Consumer Complaint Database (visited May 30, 2018; last updated May 30, 2018).

³²CFPB, Semi-Annual Report of The Consumer Financial Protection Bureau, July 21 – December 31, 2011, pg.17, n.13, https://files.consumerfinance.gov/f/2012/01/Congressional_Report_Jan2012.pdf.

respond to complaints, regardless of the merit. In this way, inviting complaints that describe simple dissatisfaction causes undue burden.

The Bureau can address this issue by narrowing the definition of “consumer complaint” so as to cover only allegations of serious problems, misconduct or conduct that would be unlawful if true.³³ While not appropriate for all conduct within the Bureau’s jurisdiction, the clear definition of “error” used in RESPA Section 1024.35 is informative.³⁴ By limiting complaints to allegations of potential legal violations, the Bureau can improve the Database’s ability to identify truly problematic conduct rather than common misunderstandings.

4. *Extend the timeframe to respond to consumer complaints to 30 business days*

The Bureau should provide companies with a more realistic timeframe within which to respond to a consumer complaint. Under the current rules, a company has 15 **calendar** days from receipt of the consumer complaint to provide an initial response.³⁵ During this time, the company must investigate the complaint to determine whether there is a commercial relationship with the consumer.³⁶

As an initial note, the atypical usage of calendar days rather than business days imposes an unfair burden on the responding company. Additionally, modern mortgage lending and servicing are complex and often fragmented activities. It follows that investigating a mortgage-related consumer complaint can be difficult and time-consuming. The challenge of investigating mortgage-related consumer complaints is acknowledged by RESPA’s error resolution procedures which provides mortgage servicers with “30 days (excluding legal public holidays, Saturdays, and Sundays)” after receiving notice to respond to the consumer.³⁷ The Bureau should adopt a similar timeframe and provide companies with **30 business** days within which to respond to a consumer complaint.

5. *Allow companies to correct inaccurate complaint classifications*

Complaints submitted to the Bureau’s Database are classified by the product, sub-product, issue and sub-issue involved. Many complaints involve multiple issues or sub-issues. The consumer determines the classification by answering a series of questions during the complaint submission process. MBA members report frequently encountering incorrectly classified complaints. As they accumulate, misclassifications combine to lessen the probative value of the Database’s complaint information and create an inaccurate public perception of the company’s business activities.

To address this problem, the Bureau should establish an easy means for companies to correct complaint classification mistakes. Doing so will improve the reliability of complaint information to the benefit of both consumers and companies.

³³ We understand the Bureau uses the database to inform its supervisory and enforcement functions. The possible necessity of more liberal definition of complaint for these purposes suggests that such a database is far better constructed as an internal Bureau resource rather than a public facing entity for the reasons outlined in this letter.

³⁴ 12 C.F.R. 1024.35(b).

³⁵ CFPB, Company Portal Manual (Version 2.14) (May 2015), pg.7, <http://www.cfbjlaw.com/files/Uploads/Documents/Resources/cfpb-company-portal-manual-may-2015.pdf>.

³⁶ Id.

³⁷ 12 C.F.R. § 1024.35(e)(3)(c).

6. *Synchronize complaint identifiers*

The Bureau should synchronize the company portal's Complaint ID (provided to the company upon complaint publication) and the complaint identifier used in the public-facing Database. Currently, the Complaint ID does not match the public-facing complaint identifier. As a result, companies are unable to locate a complaint on the public Database using the Complaint ID. This makes tracking a published complaint through the complaint resolution process unnecessarily difficult. The Bureau should address this concern by synchronizing the complaint identifiers used on the company portal with those used on the public Database. Alternatively, the Bureau could achieve the same improvement by linking the two unique identifiers currently used.

MBA appreciates the opportunity to contribute to our comments on this important matter and applauds the Bureau's willingness to consider the above recommendations on how to improve the Bureau's public reporting practices of consumer complaint information. Please contact Justin Wiseman, Associate Vice President and Managing Regulatory Counsel, at (202) 557-2854 or jwiseman@mba.org with any questions about this comment.

Sincerely,

A handwritten signature in black ink, appearing to read "D.H. Stevens". The signature is written in a cursive, flowing style.

David H. Stevens, CMB
President and Chief Executive Officer
Mortgage Bankers Association