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**National Association of Federally-Insured Credit Unions**

December 27, 2018

Ms. Ren Essene  
Data Policy Manager  
Bureau of Consumer Financial Protection  
1700 G Street NW  
Washington, DC 20552

RE: Bureau Data Collections

Dear Ms. Essene:

On behalf of the National Association of Federally-Insured Credit Unions (NAFCU), the only national trade association focusing exclusively on federal issues affecting the nation's federally insured credit unions, I am writing in regard to the Bureau of Consumer Financial Protection's (Bureau) request for information regarding agency data collections and internal data governance policies.

**General Comments:**

NAFCU supports the Bureau's transparency regarding the extent and scope of its data collection activities. The report titled "Sources and Uses of Data at the Bureau of Consumer Financial Protection" (Report), which accompanies the request for information, provides useful information to help stakeholders evaluate the agency's data governance policies and its processes for determining information sensitivity levels. While the thoroughness of the Report should be commended, NAFCU believes that more can be done to alleviate consumer privacy risks that impact credit unions and their 114 million members.

As an initial matter, NAFCU recommends that the Bureau quickly resolve the findings of the Bureau's Office of the Inspector General (OIG), which has identified weaknesses in internal access controls.<sup>1</sup> While the OIG's 2018 Audit of the Bureau's Information Security Program (Audit) shows that the agency is generally performing at a higher cybersecurity maturity level relative to previous years, NAFCU remains concerned with the OIG's observation that access to one of the Bureau's internal collaboration tools, which contains sensitive, personally identifiable information (PII) regarding consumers, was not restricted to individuals with a need to know.<sup>2</sup>

Given the seriousness of potential privacy risks that could result from improper access to sensitive consumer information, including PII, NAFCU believes that the Bureau should work to

<sup>1</sup> See Office of the Inspector General, The CFPB Can Improve Its Examination Workpaper Documentation

<sup>2</sup> See Office of the Inspector General, 2018 Audit of the Bureau's Information Security Program, OIG Report 2018-IT-C-018, 23 (October 31, 2018).

implement the OIG's recommendations as quickly as possible. Furthermore, documented weaknesses in access restrictions since 2017 should prompt a general scaling-back of existing data collections, particularly when the agency has yet to resolve issues regarding incomplete inventories of PII. As the 2018 Audit notes, incomplete inventories of PII that the Bureau is collecting or handling, and uncertainty regarding who within the Bureau is responsible for the security of the data, where the information is stored, and whether a privacy impact assessment is required, are all open issues.<sup>3</sup>

According to the Bureau's Report, the agency currently maintains 188 separate data collections, about 20 of which contain direct identifiers that could be linked to individual institutions or consumers. Continuing the Bureau's data intake operations at their current rate should be cause for concern if data inventories remain incomplete and there is doubt about the potential privacy impact of storing certain types of information. NAFCU believes that the Bureau should limit its current data collection efforts to the minimum required by statute in order to offset risks to consumer privacy, which might expose credit union membership to a heightened risk of fraud. At the very least, the Bureau should conduct privacy impact assessments for all data collections that involve consumer PII. In addition, the Bureau should consider classifying all information that contains direct identifiers or PII as high sensitivity information in order to reduce the possibility of re-identification of individual consumers.

NAFCU recognizes that the Bureau's collection of certain types of information from financial institutions is governed by statutory obligations, such as specific provisions under the *Home Mortgage Disclosure Act* (HMDA); however, the Bureau also exercises discretion when it decides what data to make public. As NAFCU has urged in previous letters, the Bureau should seek to limit public disclosure of HMDA data to mitigate privacy risks to credit union members. HMDA reports currently include the name of the credit union, mortgage amount, year of transaction, and census tract of the property. This information already provides an opportunity to identify the majority of mortgagors being reported under HMDA. Because there is little privacy protection in HMDA data, adding more detailed and otherwise non-public information creates substantial privacy concerns, particularly in rural areas where even aggregated data elements could be combined to re-identify individual borrowers.

Although the Bureau has issued final policy guidance regarding public disclosure of 2018 HMDA data, NAFCU supports the Bureau's decision to develop a more permanent disclosure methodology through a separate notice and comment rulemaking process in 2019. NAFCU believes that the potential for re-identification of borrowers using HMDA data must be assessed through a formal process that allows credit unions to address the Bureau's assumptions regarding how best to balance privacy risks with HMDA's statutory purpose.

NAFCU would also like to reiterate its recommendation that HMDA data be limited to only the items specifically mandated by the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank Act). NAFCU has long held that collection of additional, discretionary data

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<sup>3</sup> Id. at 23-24.

points would substantially increase compliance activities for credit unions and, in the event of public disclosure, undermine consumer privacy. While *the Economic Growth, Regulatory Relief and Consumer Protection Act* passed earlier this year has provided some HMDA relief for qualifying credit unions, further limiting the number of data points collected and reported would help reduce strains on compliance resources, giving credit unions more flexibility to grow, develop innovative products, and serve their communities. Accordingly, NAFCU supports the Bureau's plan to address this issue more directly in a separate rulemaking related to HMDA's close-end and open-end transactional thresholds.

Lastly, NAFCU urges the Bureau to reevaluate agency policies that govern the collection and publication of consumer complaint information received through the Consumer Complaint Database (Database). As member-owned institutions, credit unions have a paramount interest in resolving their members' issues efficiently, effectively, and in a manner that preserves confidentiality; however, successful complaint resolution programs are undermined when the Bureau publishes unverified narratives that often take the form of subjective criticism. While NAFCU supports the Bureau's efforts to ensure that markets for consumer financial products and services operate transparently and efficiently, publication of unverified complaint data frustrates this goal.

NAFCU recommends that the Bureau refrain from publishing individual consumer complaint narratives on the Database, or in any other format, as there is no shortage of alternative channels through which consumers can publicly comment on and rate the conduct of individual financial institutions. While the number of credit unions subject to the Bureau's supervisory authority and included in the Database is relatively small, publishing unverified complaints creates industry-wide reputational risk. Publication of such information on the Bureau's website could invite distortion of consumers' views about particular financial products and services, which may be offered by the industry at large and by credit unions not otherwise included in the Database. To mitigate the reputational risks posed by unverified complaint data, NAFCU believes that individual complaints collected by the Bureau should be treated as non-public information and should be limited to internal use.

## **Conclusion**

NAFCU appreciates the opportunity to comment on the Bureau's request for information regarding data collections. As the Bureau contemplates potential changes to the policies and procedures governing its data intake operations, it should seek to limit data collection activities that elevate risks to credit union member privacy or create reputational risks for credit unions. While the Bureau must work towards addressing data security issues identified by the OIG as quickly as possible, we commend the agency for its transparency regarding its current data handling processes. If you have any questions or concerns, please do not hesitate to contact me at [amorris@nafcu.org](mailto:amorris@nafcu.org) or (703) 842-2266.

Sincerely,

Bureau of Consumer Financial Protection  
December 27, 2018  
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A handwritten signature in black ink that reads "Andrew Morris". The signature is written in a cursive style with a long, sweeping underline.

Andrew Morris  
Senior Counsel for Research and Policy