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National Association of Federally-Insured Credit Unions

July 16, 2018

Monica Jackson
Office of the Executive Secretary
Bureau of Consumer Financial Protection
1700 G Street NW
Washington, D.C. 20552

RE: Request for Information Regarding the Bureau's Consumer Complaint and Consumer Inquiry Handling Processes (Docket No. CFPB-2018-0014)

Dear Ms. Jackson:

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 (RFI) on its consumer complaint and consumer inquiry handling processes.

General Comments

NAFCU and our members appreciate the Bureau's attention to improving its complaint handling and consumer inquiry processes. Credit unions, as member-owned institutions, have a paramount interest in resolving their member-owners' issues as effectively and efficiently as possible. In addition, credit unions are well-equipped to respond to complaints directly and in a manner that preserves confidentiality. However, as NAFCU indicated in our response to the Bureau's RFI seeking input on its consumer complaint reporting and publication practices (Docket No. CFPB-2018-0006), we remain deeply concerned about the reputational risks involved with the Bureau's current reporting practices; in particular, the publication of consumer complaints on the agency's website.

NAFCU believes that the Bureau should not publish consumer complaint narratives on its website, or in any other format. There is no shortage of alternative channels through which consumers can comment on or critique the conduct of financial institutions. A recent comment made by Acting Director Mick Mulvaney analogizing the Consumer Complaint Database (Database) as "Yelp for financial services sponsored by the federal government" emphasizes this fact and highlights the degree of subjectivity which permeates the Database. Credit unions already have internal policies and procedures in place to achieve complaint resolution, along with supervisory committees that provide independent and impartial investigations into member complaints.

While NAFCU's foremost concern relates to the Bureau's current reporting practices and publication of complaint narratives, NAFCU has several recommendations for how the Bureau can improve its complaint routing procedures to provide consumers with faster results. We ask that the Bureau officially define a consumer inquiry and require consumers to classify their submission as a complaint or inquiry prior to submission. NAFCU believes that preliminary classification will expedite processing by the Bureau and ensure that financial institutions can direct their attention to legitimate complaints.

NAFCU also recommends that the Bureau encourage consumers to first contact their financial institution directly before submitting a complaint through the Bureau's website. A direct line of communication with the financial institution offers the best method for achieving efficient complaint resolution. For financial institutions not under the Bureau's supervisory jurisdiction (i.e., under \$10 billion in total assets), the Bureau should direct consumers to submit their complaint or inquiries to the appropriate agency so that their concerns or questions are dealt with promptly. Finally, NAFCU discourages the Bureau from publishing consumer inquiries that contain unverified information. Rather, the Bureau should track common consumer questions and frequently update the "Ask CFPB" page accordingly so that consumers can easily access the information they need to make informed financial decisions.

NAFCU Recommendations

The Bureau should remove the Database from its public website.

NAFCU believes that the Bureau should remove the Database from public view, and that removal of the Database would be permissible under *the Freedom of Information Act* (FOIA) exemption #8 (5 U.S.C. § 552(b)(8)). Section 552(b)(8) exempts disclosure of information contained in *or related to* examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions. The Bureau's examination and supervision of financial institutions is guided by information gathered from the Database. Accordingly, complaint data should be treated as non-public information and should be limited to internal use given its significant influence over the Bureau's supervisory functions. Removing the Database from the Bureau's website would also effectuate the public policy goals of the FOIA exemptions in general, which aim to protect private interests against harm. Credit unions continue to face significant reputational risks as long as the Database publicly lists individual complaints and accompanying narratives. If the Bureau seeks to maintain the Database on its website, it should strongly consider removing individual narratives to offset the risk of serious reputational harm to supervised financial institutions.

The Bureau should not publish complaint narratives.

NAFCU and its members understand that the Bureau is bound by certain statutory requirements that permit consumers to contact the agency with complaints about financial products or services. However, NAFCU does not believe that these statutory provisions necessitate the publication of consumer complaint narratives, and particularly not without proper vetting performed at the outset. Publication of unverified consumer narratives can have long lasting effects on an institution's

reputation, resulting in fewer clients, market share, and potentially more time-consuming examinations.

In addition, the publication of unverified information does not guarantee a more transparent marketplace, but rather facilitates distortion of consumers' views about particular financial products and services. The Bureau has acknowledged that "some consumers may draw (or be led to) erroneous conclusions from the data." The Database's government branding may also give the false impression—regardless of disclaimers—that the complaints belong to an official list that bears some higher degree of reliability. Accordingly, NAFCU recommends that the Bureau refrain from publishing complaint narratives on its website.

The Bureau should require consumers to classify their submission as a consumer complaint or inquiry prior to submission, as well as provide clarity on the definition of "inquiry."

NAFCU is broadly supportive of requiring consumers to classify their comments as a complaint or inquiry prior to submission to the Bureau. Complaints and inquiries serve separate functions, and the Bureau should ensure that consumers are not mistakenly submitting complaints to individual institutions when they are in fact seeking clarification regarding products or services in the financial marketplace at large. An initial screening process to ensure proper classification of consumer comments will reduce the risk of unnecessary reputational risk to institutions that receive inquiries in the form of "complaints."

The Bureau should also define the meaning of a consumer inquiry. NAFCU suggests that the Bureau provide a definition consistent with the commentary provided in this RFI, such as "consumer requests for information about consumer financial products or services, the status of a complaint, an action taken by the Bureau or combination thereof."

NAFCU also recognizes that consumers may be inclined to disregard the Bureau's voluntary classification scheme and choose to submit their inquiries as complaints, believing that such action will elicit a faster response. Such behavior would negate the benefit of requiring classification in the first place. Although instituting a timeline for the processing of inquiries similar to the timeline that already exists for the processing of complaints would be one solution to this problem, NAFCU feels a more appropriate and less burdensome approach would be to allow companies, and also Bureau staff, to reclassify consumers' submissions as appropriate. The Bureau could also deter misclassification by adding a disclaimer to its submission forms that the financial institution and Bureau staff can reclassify the submission as needed.

The Bureau should ensure that received complaints are complete, accurate and routed to financial institutions as quickly as possible.

As member-owned, community-based institutions, credit unions are committed to addressing member concerns in an efficient and effective manner. As such, credit unions have made significant investments in call centers and helplines to ensure that their members can resolve issues as quickly as possible. To facilitate transmission of complaints regarding financial institution under \$10 billion in assets, the Bureau should route complaints to the relevant prudential regulator at the time the complaint is submitted. For informational purposes, the Bureau should also disclose in its

required annual reports the number of submitted complaints with narratives that are designated as “Do Not Send to Company.”

For consumer inquiries that seek general information about financial products or services, NAFCU encourages the Bureau to formalize the methods by which a consumer can make an inquiry. Formalizing the process by which a consumer classifies their concern as a complaint or inquiry would facilitate the efficient processing of submissions via multiple channels.

Although NAFCU supports a straightforward, consumer-friendly submission process, we have some concerns about the Bureau's current policies regarding completeness of complaint information and third party submission. Some NAFCU members have expressed concern that complaints submitted via the Bureau lack specific details, such as identifying information and a history of who the complainant corresponded with at the credit union, to adequately address and resolve the issue. NAFCU suggests the Bureau require a greater degree of detail at the complaint submission stage in order to process a complaint in the first place. Furthermore, while we are supportive of consumers using third parties to submit complaints, especially if the complainant is unable to submit independently, some of our member credit unions have indicated that due to privacy regulations, they can only respond to a member directly about their individual complaint. NAFCU recommends that the Bureau provide a disclaimer clarifying this valid limitation.

The Bureau should take precautionary steps to ensure companies receive consumer inquiries and complaints in a timely fashion, but should not require companies to provide responses to consumer inquiries on a mandated timeline.

In addition to disclaimers about the extent of information required for complaint resolution and the limitations of third party submission, NAFCU advises the Bureau to clearly provide the disclaimer that for efficient resolution, a complainant should always go directly to the financial institution if possible. Only if direct communication is unsuccessful should the consumer turn to the Bureau. Moreover, the Bureau should clearly communicate that it only handles complaints regarding financial institutions with over \$10 billion in assets, and provide consumers with links to the relevant agencies for smaller institutions so they can submit complaints to those agencies directly. For example, complaints regarding credit unions with less than \$10 billion in assets are handled by the National Credit Union Administration's (NCUA) Office of Consumer Financial Protection. A consumer would be better served by submitting their complaint directly to the NCUA, rather than submitting to the Bureau, who then must relay the complaint to the NCUA. Some credit unions have indicated that it can take close to a month for a complaint to actually reach them via this indirect process. Clearly, consumers would be better served if they were to submit their complaint to the right agency in the first place.

As member-owned institutions, credit unions provide exceptional service and invest considerable resources into systems and personnel to ensure that member concerns are addressed as quickly as possible. However, for complaints submitted through the Bureau, NAFCU and our members do not think that credit unions should be required to verify whether a consumer relationship exists with the complainant within a narrow, 15-day window. This short timeframe imposes unnecessary burdens that detracts from existing member services. In certain cases, the Bureau's complaint

process may be abused by non-members to address routine field of membership questions (FOM). For example, a consumer who is not in the credit union's FOM may submit a complaint if they are informed that they are ineligible to join the credit union. Responding to such "complaints" within 15 days consumes resources that would be better used serving existing members. The vast majority of credit unions are small, community-based institutions that may not have the bandwidth to respond to inquiries from consumers outside their FOM. Accordingly, NAFCU asks that the Bureau consider a longer timeframe for supervised credit unions to verify whether a consumer relationship exists. A longer period for verification of Bureau routed complaints would also encourage consumers to contact financial institutions directly, which would help facilitate faster resolution of issues and permit more candid company responses.

The Bureau should not publish individual consumer inquiries, but should continue to publish responses to frequently asked consumer questions about financial products via "Ask CFPB."

NAFCU and our member credit unions do not support the publication of unverified consumer complaints, which pose significant reputational risks and provide minimal benefit to the consumer marketplace given the abundance of alternative channels for sharing unverified criticism about financial institutions. However, NAFCU does encourage the Bureau to track and compile consumer inquiries. NAFCU recommends that the Bureau periodically update the frequently asked consumer questions and answers on its "Ask CFPB" page based on the frequency and type of inquiries it receives regarding a particular type of financial product or service. NAFCU also encourages the Bureau to publish all standardized responses that it has developed for frequently asked consumer questions on "Ask CFPB" so that they are readily available to consumers and financial institutions.

Conclusion

NAFCU appreciates the opportunity to provide comments on this RFI regarding the Bureau's consumer complaint and consumer inquiry handling processes. While improvements to complaint intake, routing and classification processes may help reduce some regulatory burden, we ask that the Bureau focus its efforts on ending its practice of publishing consumer complaint narratives. Publication of unverified complaint information presents serious reputational risks to credit unions without materially improving consumers' understanding of the market for financial goods and services. If you have any questions or concerns, please do not hesitate to contact me at amorris@nafcuh.org or (703) 842-2266.

Sincerely,



Andrew Morris
Regulatory Affairs Counsel