

June 4, 2018

VIA ELECTRONIC SUBMISSION

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

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

The Electronic Transactions Association (“ETA”) submits these comments in response to the Consumer Financial Protection Bureau (“CFPB”) Request for Information (“RFI”) Regarding Bureau Public Reporting Practices of Consumer Complaint Information.

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA’s members include financial institutions, mobile payment service providers, mobile wallet providers, and non-bank online lenders that make commercial loans, primarily to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient, and rewarding payment solutions and lending alternatives.

As noted in the RFI, the Bureau is tasked with “collecting, investigating, and responding to consumer complaints.”¹ ETA agrees there are significant consumer, public policy, and other benefits associated with the Bureau’s role in addressing consumer complaints. However, while consumer complaints are an important source of information for the Bureau, there are a variety of risks in making the complaints available publicly. For example, the complaint data are often incomplete, unrepresentative, and unverified. Moreover, only companies that have registered with the Bureau, and adhere to the Bureau’s complaint response procedures, are incorporated into the consumer complaint process; companies that are not registered deal with direct consumer complaints. As a result, and given a lack of greater overall context, consumer complaints made to the Bureau can be an unreliable and misleading source of information. This harms industry stakeholders, and confuses consumers.

ETA urges the Bureau to report only aggregate market level complaint data in compliance with the Bureau’s statutory obligations. The Bureau also should work with all stakeholders to improve the quality of complaint reporting generally, which will, in turn, further the Bureau’s statutory mission and stated objectives.

The Bureau should focus on using the data for the purposes contemplated by Congress, that is, for consumer response, supervisory insight, and Congressional reports. Consistent with the statutory

¹ 12 U.S.C. § 5511(c)(2).

mandate, such reports should include general information and analysis about complaint numbers and types. But the Bureau should be careful not to exceed its statutory mandate, for instance, by publishing highly specific complaint information that is often unverified or the Bureau's own analysis and interpretations of complaints.

COMMENTS IN RESPONSE TO CERTAIN RFI QUESTIONS

ETA respectfully provides the following responses to the Bureau's questions seeking input on all aspects of its public reporting practices of consumer complaint information.

1. Specific, statutorily-permissible suggestions regarding the frequency of the Bureau's reporting on consumer complaints.

ETA believes that the Bureau should report on consumer complaints as directed by the Consumer Financial Protection Act ("CFPA"), but should not expand its consumer complaint reporting beyond the bounds of the agency's statutory basis – once a year for annual reporting requirements, and once every six months for semi-annual requirements.

2. Specific, statutorily-permissible suggestions on the content of the Bureau's reporting on consumer complaints, including:

a. Whether the Bureau should include more, less, or the same amount of reporting on State and local complaint trends.

ETA believes that identifying "trends" on any level requires a degree of analysis by the Bureau that goes beyond the CFPA's language and that involves carefully verifying all of the complaint information upon which any such analysis is based. While such "trends" analysis may be useful to the Bureau internally, it should not be included in the Bureau's public reporting or presented on the agency's website.

b. Whether it is net beneficial or net harmful to the transparent and efficient operation of markets for consumer financial products and services for the Bureau to publish the names of the most-complained-about companies.

ETA believes that the Bureau should not publish the names of the most-complained-about companies. As the Bureau stated in the notice regarding the online complaint portal, "some products may, by their very nature, have higher complaint rates than others, even across all issuers that offer them. As a result, these products could cause issuers' complaint incidence to vary more by product mix than by performance."² This statement applies equally across the financial services industry generally. Moreover, certain companies have a larger market share, and, thus, have more consumer-facing interactions and likely have a higher number of consumer complaints, as a result. For this reason, too, presenting a list of most-complained-about-companies continues to be unfair and misleading.

² 76 Fed. Reg. 76631 (Dec. 8, 2011).

- d. Whether the Bureau should provide more, less, or the same amount of context for complaint information, particularly with regard to product or service market size and company share.**

Information related to the product or service market size and company market share exceed the reporting requirements set out in the CFPA. Moreover, such information could be used to identify, with reasonable certainty, a specific company at issue in the report. As explained above, ETA believes that naming specific companies in consumer complaint reports is not contemplated in the CFPA, and is tantamount to a penalty without any accompanying procedure or due process. Accordingly, ETA believes that only aggregated, anonymous consumer complaint data should be published.

4. Specific, statutorily-permissible suggestions for the publication process of consumer complaint information, including:

- d. Whether the Bureau should expand, limit, or maintain the same level of access to complaint information available to external stakeholders such as financial institutions and the public.**

ETA believes that the Bureau should allow financial institutions and other affected industry participants access to the full content of complaint information provided to the Bureau. Responding to consumer complaints is an important element of a company's overall risk management and compliance management system. Companies are able to better and more accurately tune their risk controls and make any needed improvements when they have full and real-time access to the consumer complaints that are submitted to the Bureau, in addition, of course, to the consumer complaints that the company directly receives. Moreover, consumer complaints often drive the Bureau's supervisory and enforcement efforts, and companies should have access to these complaints in order to prevent certain conduct that could give rise to a Supervision finding or Enforcement action.

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We appreciate you taking the time to consider these important issues. If you have any questions or wish to discuss any issues, please contact me at Stalbott@electran.org.

Respectfully submitted,



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Electronic Transactions Association