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*Via electronic submission*

July 16, 2018

The Honorable J. Michael Mulvaney  
Acting Director  
Bureau of Consumer Financial Protection  
1700 G Street, NW  
Washington, DC 20552

Re: Request for Information Regarding the Bureau's Consumer Complaint and Inquiry Handling Processes  
[Docket No. CFPB-2018-0014]

Dear Acting Director Mulvaney:

The Independent Community Bankers of America ("ICBA")<sup>1</sup> welcomes this opportunity to provide comments on the Bureau of Consumer Financial Protection's ("BCFP" or "Bureau") request for information ("RFI") regarding its consumer complaint and inquiry handling processes. While community banks generally provide the most personalized, high-touch financial services for consumers, situations do arise where a consumer is not satisfied with a bank's service. In such situations, community banks welcome feedback to work with the customer to resolve any difficulty or problem.

### **Background**

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank" or "Act") directs the Bureau to establish a unit "whose functions shall include establishing a single, toll-free telephone number, a website, and a database or utilizing an existing database to facilitate

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<sup>1</sup> The Independent Community Bankers of America®, the nation's voice for nearly 5,700 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. With nearly 52,000 locations nationwide, community banks employ 760,000 Americans, hold \$4.9 trillion in assets, \$3.9 trillion in deposits, and \$3.3 trillion in loans to consumers, small businesses, and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).

the centralized” collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services.”<sup>2</sup> The Act also directs the Bureau to establish “reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person.”<sup>3</sup>

In order to comply with the statutory mandates, the Bureau’s procedures include the establishment of the consumer complaint portal, where a consumer can complete a series of questions and data fields to file a complaint about a company. The Bureau then screens the submission and forwards it to the named company, which has 15 days to provide an initial response. The company is then able to communicate with the customer and determine what action to take, having up to 60 days to provide a final response. The Bureau then invites the consumer to review the response and provide feedback.

Part of the Bureau’s initial screening process includes ascertaining whether it is a complaint, an inquiry, or feedback about the Bureau. Submissions in the latter two categories are not forwarded to the identified company for handling as complaints.<sup>4</sup> The Bureau also determines whether the submission falls within the BCFP’s primary enforcement authority, is complete, or whether it is duplicative of a prior complaint by the same consumer. If a complaint does not involve a product or market that is within the Bureau’s jurisdiction, the Bureau refers it to the appropriate regulator.<sup>5</sup>

Prior to and separate from this RFI, the Bureau solicited feedback on its practice of publicly reporting disaggregated complaints from the consumer complaint database. ICBA responded to that RFI on June 24, 2018.<sup>6</sup> Now, the Bureau seeks comment on its other related complaint database practices, including the handling and processing of complaints and inquiries. ICBA is pleased to offer the comments below.

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<sup>2</sup> 12 U.S.C. § 5493(b)(3).

<sup>3</sup> 12 U.S.C. 5534(a).

<sup>4</sup> 77 Fed. Reg. 37558, 37561 (June 22, 2012).

<sup>5</sup> Monthly Complaint Report, Vol. 25, July 2017, FN 3 at 3, *available at* [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201707\\_cfbp\\_monthly-complaint-report-vol-25.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/201707_cfbp_monthly-complaint-report-vol-25.pdf). If the Bureau receives a complaint regarding a bank that has less than \$10 billion in assets, then the Bureau forwards the complaint to that bank’s prudential regulator for individual follow-up.

<sup>6</sup> Michael Emancipator, *ICBA Response to Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information*; Docket No. CFPB-2018-0006 (June 4, 2018), *available at* [https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/18-06-04\\_bcfpltr.pdf?sfvrsn=0](https://www.icba.org/docs/default-source/icba/advocacy-documents/letters-to-regulators/18-06-04_bcfpltr.pdf?sfvrsn=0).

## ICBA Comments

### Executive Summary

Community banks recognize that their success is linked to the overall satisfaction of their customer-base. It benefits community banks to excel in serving their customers and resolve situations when consumers' expectations are not met. The Bureau's statutory mandate serves an important purpose that can help banks achieve this desired result. To aid in the Bureau's handling of consumer complaints and inquiries, ICBA offers recommendations noted below in support of the Bureau's review.

- Reconfigure the complaint portal so consumers understand the array of options available.
- Direct consumers to first seek redress directly from the bank before submission of a complaint through the portal, which can provide the speediest resolution.
- Broaden the definition of relief by eliminating the emphasis on the monetary component.
- Include more mandatory data fields to provide additional clarity and context.
- Cease publication of disaggregated consumer complaints.

### Resolution of Complaints

Often, a complaint submitted directly to a bank will provide a consumer with a much speedier resolution than if the complaint were submitted through the Bureau's complaint portal. To prioritize customers and their satisfaction, ICBA recommends that the Bureau require consumers to first seek redress directly from the bank before submission of a complaint through the portal. Consumer problems can usually be handled and resolved the same day that a customer approaches the bank with a problem. Community banks strive to resolve the matter quickly and satisfactorily.

ICBA urges the Bureau to reconfigure the complaint portal so consumers understand the array of options available, the first step of which should include contacting the company with which they have a grievance. ICBA recommends that the consumer be required to attest that he or she attempted to seek redress from the bank before formally filing the complaint. Although not every dispute will be settled in this manner, it will almost certainly be the quickest resolution for those that are able to settle complaints that might simply be a customer service related issue.

## Bureau Should Interpret “Relief” More Expansively

Covered entities can select one of six options as a response to a complaint, including “closed with monetary relief,” “closed with non-monetary relief, and “closed with explanation.”<sup>7</sup> The Bureau defines “monetary relief” as “objective, measurable, and verifiable monetary value to the consumer as a direct result of the steps [the covered entity has] taken or will take in response to the complaint.”<sup>8</sup> This can include a range of relief such as refunding a fee, providing mortgage foreclosure alternatives, restoring or removing a credit line, correcting account information, and addressing formerly unmet customer service issues.

In contrast, “closed with non-monetary relief” and “closed with explanation” both indicate that the company took steps in response to the consumer’s complaint including relief or an explanation that substantively meets the consumer’s desired resolution. Yet these responses do not contain a monetary component. The Bureau has parsed “relief” by focusing on monetary aspects of a company’s response.

ICBA contends that this subcategorization of “relief” presupposes that adequate resolution is premised on monetary value. Relief and resolution can and does take many alternate forms and cannot be reduced to a simple, objective measure. ICBA recommends that the Bureau expand its definition of relief by eliminating the monetary component and simply indicate “closed with relief” or “closed without relief.”

## Additional Required Data Fields Will Provide Clearer Assessment

As mentioned above, part of the Bureau’s monitoring function includes the tracking and organization of complaints based on categories. The Bureau’s Semi-Annual Report to Congress notes that there are instances of overlap between categories, such as the designation of a credit card debt as a “debt collection” complaint or a “credit card” complaint.<sup>9</sup>

Aside from category overlap, there may be instances where a consumer files a complaint against his or her bank due to a problem with the mortgage payments, but the complaint would be more correctly lodged against the mortgage servicer. Similarly, the consumer could identify a complaint as being associated with a debt collector but identify the bank which no longer owns the debt being collected.

It is also difficult to determine whether a complaint is lodged because the consumer believes the bank acted illegally or because he or she was simply dissatisfied with a result. Although

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<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Id.*

<sup>9</sup> See Semi-Annual Report of the Bureau of Consumer Financial Protection, April 2018, at 21, available at [https://files.consumerfinance.gov/f/documents/cfpb\\_semi-annual-report\\_spring-2018.pdf](https://files.consumerfinance.gov/f/documents/cfpb_semi-annual-report_spring-2018.pdf).

complaints are only forwarded when they contain all the required fields, ICBA contends that there are too few required fields. To eliminate or reduce erroneous data, ICBA recommends that the complaint form include more mandatory fields for the consumer to fill-in. Alternatively, more refined categories would help depict a clearer assessment for consumers, the Bureau, covered entities and other policymakers.

### **Cease Publication of Disaggregated Data in Complaint Database**

Finally, ICBA reiterates comments made in response to the Bureau's practice of publishing consumer complaint data.<sup>10</sup> While the collection of those complaints is part of the Bureau's statutory mandate, current Bureau practice exceeds that authority by publishing those individual complaints on a public facing website. ICBA remains distressed by the Bureau's publication of unverified or inaccurate information which may mislead consumers. Given the complexities of financial services, most consumers unknowingly interact with multiple entities when engaging in a financial transaction. If the consumer has a bad experience, the consumer may misidentify his or her bank as the cause of the bad experience.

### **Conclusion**

Community banks welcome feedback and strive to address consumer complaints so that all parties are satisfied. Community banks strive to serve their customers and meet their financial service needs. Should you have any questions or would like to discuss anything further, please do not hesitate to contact me at [michael.emancipator@icba.org](mailto:michael.emancipator@icba.org) or 202-659-8111.

Sincerely,

/s/

Michael Emancipator  
Assistant Vice President and Regulatory Counsel

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<sup>10</sup> Emancipator, *supra* note 6.