



September 22, 2014

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

Re: Docket No. CFPB-2014-0016 Notice of Proposed Policy Statement with Request for Public Comment

Dear Ms. Jackson,

I am writing on behalf of National Consumer Reporting Association (NCRA)<sup>1</sup> in response to the Consumer Financial Protection Bureau's (CFPB) request for public comment on its proposed policy statement published in the Federal Register on July 23, 2014 at 79 FR 42765–42769. The proposed policy statement would expand the CFPB's Consumer Complaint Database to include unstructured consumer complaint narratives from consumers who opt in.

## **Background**

NCRA has a demonstrated track record of representing not only the interests of our members but also as a “pro consumer” organization dedicated to improving affordable access to credit for

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<sup>1</sup> Founded in 1992, NCRA is a national trade organization of consumer reporting agencies (CRA's) and associated professionals that provide products and services to hundreds of thousands of mortgage lenders and property managers who use consumer reports for housing decisions. Headquartered in suburban Chicago, NCRA's membership includes 70% of the mortgage credit reporting agencies in the United States that produce a credit report that meets the requirements of Fannie Mae, Freddie Mac, and HUD for mortgage lending. As a result of our focus on housing issues and the educational programs designed for multifamily housing needs, NCRA's fastest growing membership category is tenant screening firms. For more information on NCRA, please visit <http://www.ncrainc.org>

deserving borrowers.<sup>2</sup> We appreciate the opportunity to provide comments on the proposed changes to the CFPB’s complaint portal in the interest of both our member consumer reporting agencies (CRAs) and individual consumers of financial products.

NCRA understands and fully supports the need for greater transparency in government. However, we believe that the move to include consumer narratives in the CFPB’s complaint system will hurt both businesses and consumers. While the intention behind of this change is beneficial on its face, the possibilities for abuse are great in number, severity, and likelihood.

In a notice dated July 23, 2014, the CFPB wrote the following about the complaint portal:

[The objective] is to provide consumers with timely and understandable information about consumer financial products and services, and improve the functioning, transparency, and efficiency of markets for such products and services.<sup>3</sup>

NCRA believes that this goal is already effectively accomplished by the complaint portal in its current state. All necessary information is readily available in a clear and concise way. Adding narrative to the complaint will merely add more words to each entry without substantively enhancing the available information. The current system summarizes core issues of each complaint and relays that information in a simple, unbiased way. NCRA has concerns that an expanded complaint portal which includes narratives will become more of a complaint forum for disgruntled customers. We believe there are plenty of public forums of this nature widely available online; creating another forum of this kind, but sponsored by the Federal government, should not be part of the CFPB’s work.

For every complaint about a financial services provider filed with the CFPB, there may be thousands of similarly aggrieved customers for the same company. But nowhere is there a place for a consumer to read about positive experiences other consumers have had with a company—there are no “praise portals” for the financial services companies. Further, companies’ advertisements are restricted due to applicable advertising and disclosure laws and regulations. Thus, if the consumer views only the complaint portal the consumer receives a skewed view of the financial services company. This view via the CFPB portal also has a higher significance because it appears on a government sourced website.

If the ultimate goal of the complaint portal is to provide more “useful information” to consumers, the main concern should be to provide the consumers with a complete and accurate view of a dispute. The CFPB has a proven track record of protecting consumers and ensuring they receive

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<sup>2</sup> See <http://www.ncrainc.org/legislative-news-actions.html>

<sup>3</sup> <https://www.federalregister.gov/articles/2014/07/23/2014-17274/disclosure-of-consumer-complaint-narrative-data#p-20>

the information necessary to make informed financial decisions. We believe including a narrative to be a well-intentioned misstep to do exactly that. We believe this because the CFPB's statements in support of the proposed disclosure do not give equal consideration to both sides of the story. Although the CFPB has stated that financial services companies will have a chance to respond, the companies' responses will be extremely limited and generic so as to ensure that they do not violate any consumer financial privacy laws or regulations. Indeed, the Graham Leach Bliley Act even prohibits acknowledging that a consumer is also a customer. The proposed changes will result in an uneven playing field that provides financial services firms with few options to defend themselves.

One of the most important aspects of the CFPB's current complaint system is the credibility it affords to *both* a consumer and the company about which they are complaining. The CFPB follows up on each complaint up by reaching out to the company in question. This gives the company a chance to respond, and for appropriate action to be taken to resolve any dispute. The risk caused by a company's limited ability to respond is compounded by the fact that not all consumers are well informed about the law and their financial services companies' duties and abilities to act.

NCRA has reviewed several complaints that have been provided to companies through the CFPB's Complaint Portal. In our experience, many of these consumer complaints have been rife with inaccuracies. Consumers frequently fail to mention key facts, particularly when unfavorable to them, in the dispute. We are concerned that if the facts offered by a consumer are incorrect, then the additional consumer narrative will only further confuse or mislead an individual who may use the database to select a financial provider. Because financial services companies are prohibited under UDAAP (Unfair, Deceptive, or Abuse Acts or Practices) prohibitions from confusing and misleading consumers, NCRA questions why the CFPB would incorporate a policy in its database that is likely to confuse and mislead.

NCRA's experience in this realm aligns with the CFPB's own findings about the consumer complaints it has received. In the CFPB's 2013 Consumer Response Report,<sup>4</sup> the Bureau's own statistics showed that in 2013 of all the complaints filed under the current complaint system, nearly 70 percent were closed with only a simple clarification or added explanation to the consumer. If the proposed policy change had been in place in 2013, almost 70 percent of the narratives told by the consumers would have provided unfair, inaccurate, or incomplete information about the company involved. Further, we believe that this rate of inaccurate claims

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<sup>4</sup> [http://files.consumerfinance.gov/f/201403\\_cfpb\\_consumer-response-annual-report-complaints.pdf](http://files.consumerfinance.gov/f/201403_cfpb_consumer-response-annual-report-complaints.pdf)

would undermine the credibility of the system in general and be a disservice to those seeking help with legitimate complaints.

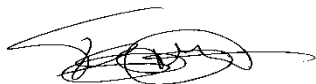
Finally, the proposal raises concerns that this new system will allow attorneys to use the portal to shop for class actions. The cost of defending such litigation is increasing rapidly as business insurance costs have increased dramatically in recent years. These costs inevitably will be passed along to the consumers through increased cost of the services. Thus, the potential for unfounded complaints leading to increased costs in financial products is very real and may have an unintended, adverse impact on consumers.

### **Conclusion**

NCRA appreciates the opportunity to comment in strong opposition to the CFPB's proposed policy of allowing consumer narratives in its complaint portal. This proposed change, while well intended, has the potential to have a negative impact on the financial services firms and consumers alike. Such a result would not fulfill the CFPB's stated goal of improving the functioning, transparency, and efficiency of markets for such products and services. It would only offer individuals the ability to publish unfounded rants on a government sponsored website, which the CFPB has already determined a majority to be simple misunderstandings, if not plagued by other inaccuracies. This will undermine the credibility of the complaint portal in its current form, which is not in anyone's best interest.

Again, NCRA appreciates the opportunity to comment on this proposed policy and thanks the CFPB for considering our position.

Sincerely,



Terry W. Clemans  
Executive Director  
National Consumer Reporting Association