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September 30, 2016

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

Re: Docket No. CFPB–2016–0041, Agency Information Collection Activities: Comment Request

Dear Ms. Jackson:

The Independent Community Bankers of America¹ appreciates the opportunity to respond to the Consumer Financial Protection Bureau's request for comment (proposal) on a new optional consumer information survey regarding a financial services company's response to and handling of their complaint which would be incorporated into the CFPB Complaint Database.

Community banks are greatly invested in addressing and resolving consumer complaints. While ICBA supports CFPB's efforts to educate consumers and assist them

¹ The Independent Community Bankers of America, the nation's voice for nearly 6,000 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 51,000 locations nationwide, community banks employ 700,000 Americans, hold \$3.9 trillion in assets, \$3.1 trillion in deposits and \$2.6 trillion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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when making financial decisions, we have concerns with this proposal, both because of the way it has been published – outside of notice and comment rulemaking – and its substance.

As ICBA has written in past comments, the public posting of consumer complaints – without independent verification of all the facts alleged – could mislead consumers and others by misrepresenting companies and the products and services they offer. This proposal does not address that underlying issue, in fact, it allows for the inclusion of additional unverified information to the Complaint Database.

Background

This proposal follows a Notice and Request for Information the CFPB issued in March 2015² seeking input from the public on the potential collection and sharing of information about consumers' positive interactions with financial service companies including providing more information about a company's complaint handling such as highlighting the quality of responses to consumers by replacing the Complaint Database's consumer "dispute" function with a two-part consumer feedback process.

Under the proposal, consumers will have the ability to rate a company's response to the handling of his or her complaint on a one-to-five scale and provide a narrative description in support of the rating. The proposal's summary indicates that the CFPB believes that positive feedback about the company's handling of the consumer's complaint would be reflected by both high satisfaction scores and by the narrative in support of the score. The proposal's summary also indicates that the CFPB believes negative feedback about the company's handling of the consumer's complaint would be better supported and more useful to companies than the current dispute function in the Complaint Database.

Additional changes to the Complaint Database should only occur after notice and comment rulemaking

ICBA is concerned that the CFPB has chosen to move forward with this effort without engaging in notice and comment rulemaking as we recommended in our comments on the March 2015 proposal. Considering the substantial impact these proposed changes will likely have on both consumer decision making and the companies that receive complaints, the Bureau should withdraw this proposal and undertake a cost benefit analysis to better understand its effects. Only after completing that cost benefit analysis –and if the CFPB concludes additional action is necessary – should the Bureau proceed

² 80 FR 15583

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to notice and comment rulemaking. Notice and comment rulemaking would allow interested stakeholders an opportunity to fully consider the costs and effects of the proposal and provide comments on that analysis.

Allowing unsubstantiated feedback on complaints that have not been verified will not improve consumer decision making

ICBA has long urged the Bureau to develop processes to independently confirm all of the facts alleged in consumer complaints before they are released to the public through the Complaint Database. The CFPB has defined consumer complaints as “submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer’s personal experience with a financial product or service.”³ Consumer complaints in the Complaint Database are subjective in nature and many are not fully verified, and as such, could misrepresent companies and the products and services they offer. Moreover, the CFPB noted in conjunction with its most recent annual report on the Database that 76 percent of complaints it receives from consumers are “closed with an explanation,” “closed without relief or explanation,” or closed with an “administrative response” by the responding entity.⁴

Now the CFPB is proposing to add unsubstantiated feedback from consumers on a company’s response to the original complaint. This action will only compound the underlying issues with the Complaint Database. Allowing unsubstantiated feedback, including numerical ratings, on complaints that have not been fully verified will not improve consumer decision-making. In fact, by adding the imprimatur of the federal government to complaints that have not been fully verified, the CFPB runs the risk of misleading the very consumers it is charged with protecting. As the Bureau contemplates additional changes to the complaints process, we again strongly recommend that complaints not be disseminated publicly until all of the facts alleged are independently confirmed.

Conclusion

ICBA appreciates the opportunity to provide comments on this proposal. We believe that by taking the steps outlined in this letter, the CFPB could improve the Complaint Database for consumers and industry. If you have any questions regarding ICBA’s comments, please contact me at joseph.gormley@icba.org or 202.659.8111.

³ CFPB, Consumer Response Annual Report (March 2016), p. 5.

⁴ Id. at 43.

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Sincerely,

/s/

Joseph M. Gormley
Assistant Vice President and Regulatory Counsel

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