

CFPB Director Richard Cordray
Bureau of Consumer Financial Protection
Washington, D.C. 20552

Re: CFPB Complaint Narrative & Re-Identification

August 23, 2013

Dear Director Cordray:

The undersigned privacy, consumer, and civil rights groups continue to believe that there is immense value to including complaint narratives in the CFPB public complaints database. Disclosing complaint details while taking precautions to prevent the release of personal data is an achievable objective.

Substantive detail - available only through complaint narratives - is invaluable information for individual consumers, researchers and regulators and wherever possible should be disclosed to the public. Complaint narratives help to empower consumers in the financial marketplace. We also share the CFPB's concern and cautious approach to preventing re-identification of personal information. Although no process is risk-free, we believe that precautions like those we outline in this letter can satisfactorily protect individual privacy while assuring the level of public access to information needed to provide critical evaluation and oversight.

Opt-in

The first step in a series of safeguards to protect complaint filers' privacy is to make public sharing of complaint narratives voluntary. People who file complaints should affirmatively consent to having the narrative portion of their complaint included in the public database. With an opt-in, consumers can maintain control of the information that is shared publicly. Clear, upfront explanation can also help consumers understand the value of sharing narrative information, if they are comfortable doing so.

Following an opt-in, the CFPB can alert and remind complaint filers not to provide personally identifiable information (PII) in the narrative section of the form. The non-profit Privacy Rights Clearinghouse has successfully incorporated this approach, with frequent pop-up reminders during the intake process to avoid unintended release of personal data. The PRC Complaint Tool dedicates an entire page to reminding users to not include PII (including a list of what is considered PII). Users receive a second prompt when reviewing their complaint prior to submission, and a third and final reminder to prevent inclusion of PII appears on the Submit Your Complaint page.

Algorithms and Human Interface

Keywords and phrases can then be selected to scrub complaints for personal details that might inadvertently identify an individual. We encourage the CFPB to use search algorithms to diminish the possibility of accidental disclosure of personal data.

Prior to publication, the next stage in the process should include manual review of complaints to add further confidence that personal details are not being disclosed. This step will be especially important at the outset of the process of sharing complaint narratives to identify and remedy problems or gaps in the key words and phrases-based screens.

The CFPB should make exceptions to the policy of releasing complaint narratives upon a complaint filer's consent, in instances in which a narrative would unavoidably reveal the complaint filer's identity.

Additional steps to protect privacy

The consumer complaint database should include narrative information to allow analysis by company, complaint type, zip code, and other fields of interest to the public, researchers and regulators.

To prevent possible re-identification of people who live in zip codes with very few residents, we suggest the CFPB omit zip code reporting for zip codes with fewer than 10,000 residents. A geographic identifier for both city or town and county should be used for complaint records from consumers in zip codes with fewer than 10,000 residents. In sparsely populated cities and towns, reporting at the county level only would be appropriate. In counties or cities that have only one zip code with fewer than 10,000 residents, residents' privacy can be protected by also omitting zip code reporting for the zip code with the second smallest number of residents. This way, a complaint filer's zip code cannot be reverse engineered from the data.

More than 82% of U. S. residents live in zip codes with at least 10,000 people, so the vast majority of complaint data should include zip code information. Omitting zip codes with populations larger than 10,000 residents from zip code level reporting presents a significant danger of obscuring critical information about the distribution of complaints that are important for understanding patterns of service or abuse.

Thirty-five percent of U.S. residents live in zip codes with fewer than 20,000 residents, and 26% live in zip codes with fewer than 15,000 residents. In Rochester, New York, for example, omitting zip codes with fewer than 15,000 residents would exclude all of Rochester's communities of color from zip code level reporting in the complaints database, preventing Rochester advocates and New York State regulators from identifying complaint patterns based on the racial composition of neighborhoods in Rochester. Reporting zip codes for complaint filers who live in zip

codes with 10,000 or more residents would ensure comprehensive reporting in many small and medium-sized American cities.

Detecting discrimination via protected class data

In addition to making public the narrative data, we urge the CFPB to encourage complainants to voluntarily provide protected class data to assist regulators, researchers and the public in detecting and rooting out discriminatory practices. At intake, the CFPB should request complaint filers' information on ethnicity, race, marital status, age, source of income and gender. (This data is already requested in every mortgage loan application). While providing this data should remain optional for consumers, we suggest that the CFPB encourage reporting by including a compelling explanation as to why this information is so valuable.

We recommend that collected protected class information be included in the consumer complaints database so that regulators, researchers and consumers have the opportunity to evaluate whether there are patterns of discrimination and abuse.

Just as the CFPB requires data for effective rulemakings, consumers too require detailed data to make informed financial decisions. According to the CFPB's own response to Congress in May, it is obliged to share complaint data with the public, while maintaining individuals' personal privacy.¹

We share your deep commitment to safeguarding personal consumer information, and as you consider the challenges of data disclosure we ask that you remember that so much of the data that we seek to protect is already available to companies that can afford to purchase it. Consumers are already identifiable to those businesses that can pay to access an enormous amount of detailed individualized personal information, from people's personal web browsing habits and shopping history, to information about their credit scores, mortgages, and more. Given the CFPB's commitment to educating and protecting consumers through transparency and clear, useful information, release of complaint narratives aligns with your mission to provide the most meaningful information possible for individuals to make financially sound decisions.

We are confident that the CFPB can both make the consumer complaint database as helpful as possible to consumers and researchers and take the necessary steps to protect personal data.

Thank you for considering our recommendations.

¹ "The Dodd- Frank Act directs the Bureau to establish the infrastructure for receiving and disseminating consumer complaints, and specifically directs the Bureau to share consumer complaint information to facilitate 'supervision and enforcement' activities" 12U.S.C. 5493 (b)(3). Cordray letter to Rep. Mike Crapo, U.S. Senate Banking Committee, May 23, 2013

Sincerely,

Americans for Financial Reform
California Reinvestment Coalition
Center for Digital Democracy
Consumer Action
Consumer Federation of America
Consumers Union
Empire Justice Center
Greenlining Institute
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
National Fair Housing Alliance
New Economy Project (formerly NEDAP)
Privacy Rights Clearinghouse
Public Citizen
The Institute for College Access & Success and its Project on Student Debt (TICAS)
U.S.PIRG
Woodstock Institute
World Privacy Forum