



NEW YORKERS FOR RESPONSIBLE LENDING

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September 22, 2014

VIA INTERNET: www.regulations.gov

Director Richard Cordray
Consumer Financial Protection Bureau
1700 G Street N.W. Washington, D.C. 20552

Re: CFPB Complaint Narrative Comments
Docket Number: CFPB-2014-0016

Dear Director Cordray,

The undersigned members of the New Yorkers for Responsible Lending (NYRL) coalition appreciate the opportunity to comment on the Consumer Financial Protection Bureau's proposed policy statement to disclose consumer complaint narrative data in the CFPB's public complaint database. We strongly support the CFPB's decision to release the stories individuals share when filing a complaint. We commend the CFPB for taking this crucial step toward accountability and transparency, which will help ensure that the CFPB's consumer complaint database is a meaningful resource for people and advocates working to combat unlawful, unfair, deceptive, and abusive conduct in the financial services industry. We urge the CFPB to include additional critical information in the public database, as outlined below. We request that the CFPB consider this comment letter to constitute 30 separate letters for the purposes of counting the total comments received on this proposal.

NYRL is a state-wide coalition that promotes access to fair and affordable financial services and the preservation of assets for all New Yorkers and their communities. NYRL's 165 members include community development financial institutions, community-based organizations, affordable housing groups, advocates for seniors, legal services organizations, housing counselors, and community reinvestment, fair lending, labor and consumer advocacy groups. For years, NYRL members have worked with New Yorkers and New York communities that have been adversely harmed by the abusive conduct of banks, non-bank lenders, debt collection firms, credit reporting agencies, and other financial services companies.

Filing complaints with government agencies is an important tool that allows the public and advocates to inform regulators about financial practices that harm people and communities, so that government enforcement, supervision, and rulemaking are effective. In the past, however, the complaints that we filed with financial regulators did not produce positive results for individuals or lead to broader changes. We are hopeful that the CFPB's complaint process will be more effective overall, and we view the CFPB's consumer complaint database as an important tool to ensure the accountability of both financial institutions and the CFPB itself.

In response to the CFPB's policy proposal, we wish to comment on four specific issues central to ensuring the effectiveness of the database: the inclusion of the original company

response, the public disclosure of complaints where litigation is pending, the inclusion of zip code information, and the collection and publishing of protected class information.

Publishing the Company Response

We support the CFPB's proposal to permit a financial institution or company to include its response to a complaint in the public database. This approach allows the public to view the complaint and response side by side to better understand the dispute and evaluate the company's responsiveness.

However, we strongly believe that in order for the database to provide meaningful information to the public, the database must include the company's detailed response sent to the complaint filer, rather than a separate, public-facing response provided by the company. Providing the full company response to the filer, cleared of all personally identifiable information to protect the privacy of the individual, will encourage meaningful company responses; allow the public to track and gauge actual company responses; and minimize the risk of further confusion for the complaint filer. Allowing the company to craft a separate public-facing response for the database would not enhance the quality of the information publicly available. We therefore recommend that the CFPB permit companies to provide a response in the public database, provided that it is the same full, de-identified response that the company provided to the complaint filer.

Publishing complaints filed while in litigation

As the CFPB considers this important expansion of information available to the public in the database, we strongly urge the CFPB to end the practice of excluding from the database complaints filed by people currently engaged in litigation with their financial services companies ("in-litigation complaints"). The exclusion of these complaints from the database deprives the public of enormously valuable information and skews the data currently available. For example, homeowners struggling with their mortgage servicers in states with a judicial foreclosure process continue to work directly with their servicer to apply for loan modifications or other foreclosure relief for months or even years after a foreclosure action has been filed. Further, individuals being pursued in the court system by debt collection companies and their law firms may experience significant violations of their rights under federal and state consumer protection laws during the course of litigation, but their experiences would be concealed from the public under the current policy. There is no valid reason to exclude in-litigation complaints from the public database, and the CFPB should include these complaints going forward to ensure that the public gets accurate information about the nature of the complaints filed.

Making zip code data public

The current CFPB complaints database includes full, 5-digit zip codes for all complaint filers who live in zip codes with populations of at least 10,000. This standard ensures that the complaint data can be analyzed to identify geographic patterns of complaints for the vast majority of complaint filers. The CFPB should not change the standards for including zip codes in the public complaint database when it begins disclosing complaint narratives.

The CFPB's proposal to use the HIPAA safe harbor standard to de-identify data will remove sensitive information from the database, but the CFPB should continue to report 5-digit zip code information rather than adopting HIPAA's zip code reporting standards. Five-digit zip code data are vital to identifying practices that harm neighborhoods. As the foreclosure crisis demonstrated, financial institutions often target communities of color and immigrant

communities with predatory or abusive products and services, and without 5-digit zip code reporting, the complaints database would not be useful in identifying and addressing these patterns.

The HIPAA standards for zip code reporting allow only the publication of the first 3 digits of zip codes when there are more than 20,000 people living in the zip code area, and omit zip code reporting entirely if the population is smaller than that threshold. If the CFPB were to adopt this standard, it would obscure important patterns of discriminatory and abusive practices because the areas covered by the first 3 digits of a zip code are so large that they often encompass communities spanning the full spectrum of income, racial and national origin compositions— thus preventing the public from identifying meaningful neighborhood-level patterns in the complaint data.

The CFPB should continue to collect and make public 5-digit zip code data for all complaints filed by people living in zip codes with at least 10,000 residents. The proposed HIPAA standard is unnecessarily restrictive and the CFPB's alternate proposal of raising the population threshold for 5-digit zip code reporting to 20,000 would exclude almost 35% of the population from zip code level reporting. Given the immense value of zip code data, excluding that reporting for more than a third of the residents of the U.S. would substantially decrease the utility of the database. Additionally, in smaller cities, many zip codes in communities of color have populations of less than 20,000. It is particularly important to break out these zip codes in the public database because the communities that they cover are so often the target of abusive financial services practices.

Maintaining the current standard, reporting full, 5-digit zip code information for zip codes with 10,000 or more residents will include more than 80% of the population and still ensure that zip codes house enough residents to make re-identification difficult. If people who live in zip codes with fewer than 10,000 residents file complaints, the CFPB should report their city or county of residence (if it contains 10,000 or more residents). If only one zip code in a city, county or state has a population of less than 10,000, the CFPB should omit reporting for the second smallest zip code as well to ensure that the omitted zip code is not identified by process of elimination.

Collecting and making public protected class information

As the CFPB updates the complaint filing procedure, it is absolutely critical that the Bureau add questions on complaint filers' protected class status to ensure that the complaints database contains information necessary to detect patterns of discriminatory financial practices. The CFPB should encourage complaint filers to include protected class information in an optional section of the complaint form. The protected class data collected should, at a minimum, include: race, color, religion, national origin, sex, marital status, age, and source of income (currently, the CFPB only collects information on complainants' age). Our groups have seen again and again the devastating effects of discriminatory financial practices on communities of color throughout the State, but there is little comprehensive data on these practices. By collecting information on protected class, the CFPB would have a unique opportunity to broadly examine and collect information on patterns of discriminatory conduct by financial services companies.

Filling out a short section with drop down menus for protected class information would add minimal time and burden to complaint filers, particularly when weighed against the benefit to complaint filers, the CFPB and the public from collecting this information. To increase the

likelihood that complaint filers complete the protected class information section, the CFPB should include an explanation of how the data collected will be used to evaluate whether financial institutions are engaged in patterns of discriminatory conduct.

The protected class data the CFPB collects should also be included in the public database with some adjustments to protect complaint filers' privacy. Rather than reporting age as a number, the CFPB should report age ranges, for example, 18-30, 31-45, 45-61, and 62+. Similarly, for source of income reporting, the CFPB should ask for and report only general categories such as employed, unemployed, receive government support or benefits, retired, or student. Sex, marital status, color, and race should be reported as submitted by complaint filers. National origin data should be reported in the public database as regions rather than countries, and religion should be reported as major religious groups rather than specific denominations. After making these adjustments to the protected class data, the CFPB should develop an automated analysis procedure to determine whether any of the protected class categories included in the public data are rare enough, alone or in combination, within the complaint filer's zip code to allow the complaint filer to be re-identified. If so, the CFPB should not make public the protected class category or categories that allow for re-identification.

The CFPB's public complaints database is a major step forward, and we urge the CFPB to build on that success by collecting and making public critical data including detailed complaint narratives, full company responses, information on complaints in litigation, 5-digit zip codes, and protected class information.

Thank you for the opportunity to comment on this groundbreaking proposal.

Sincerely,

Albany County Rural Housing Alliance, Inc.
Association for Neighborhood and Housing Development
Bedford-Stuyvesant Community Legal Services
Central New York Citizens in Action, Inc.
Central New York Fair Housing Council
Common Cause/NY
Cypress Hills Local Development Corporation
DC 37 (AFSCME) Municipal Employees Legal Services
Empire Justice Center
Fifth Avenue Committee
Grow Brooklyn
Human Development Services of Westchester
JASA/Legal Services for the Elderly in Queens
Legal Services NYC
Legal Services NYC-Bronx
Long Island Housing Services, Inc.
Lower East Side People's Federal Credit Union
Manhattan Legal Services
Neighbors Helping Neighbors
New Economy Project

New York Legal Assistance Group
New York Public Interest Research Group (NYPIRG)
PathStone Corporation
Pratt Area Community Council
Queens Legal Services
South Brooklyn Legal Services
Staten Island Legal Services
SUNY Buffalo Law School Affordable Housing and Community Development Clinic
Westchester Residential Opportunities Inc
Western New York Law Center