



May 30, 2018

Mr. Darian Dorsey  
Deputy Assistant Director  
Office of Consumer Response  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

RE: Docket Numbers CFPB-2018-0006 and CFPB-2018-0014

Dear Mr. Dorsey:

The National Council of Higher Education Resources (“NCHER”) is responding to the above-referenced Requests for Information (“RFI”), both of which relate to the Bureau of Consumer Financial Protection’s (“CFPB” or “Bureau”) consumer complaint processes. RFI 2018-006 was published in the *Federal Register* on March 6, 2017 and RFI 2018-0014 was published in the *Federal Register* on April 17, 2018. Even though the Bureau published two separate RFIs, we are responding to them together because of their common subject.

NCHER is a national, nonprofit trade association representing state, nonprofit, and private higher education service agencies that administer education programs that make grant and loan assistance available to students and parents to pay for the costs of postsecondary education. Our membership includes organizations under contract with the U.S. Department of Education to service and recover outstanding loans made under the Federal Direct Loan Program, entities that service and recover outstanding loans made under the Federal Family Education Loan Program, and organizations that service and recover private education loans. Most NCHER members assist students and families succeed in postsecondary education as part of their public service missions, and have designated Ombudsman staff who work with struggling borrowers to identify potential problems and serve as a voice of fair process throughout the student loan life cycle.

Student and parent borrowers who experience poor customer service, receive inaccurate documentation, or have trouble getting answers to their questions have every right to complain about the service they received from their service providers. While they can submit these complaints directly to the company, the Bureau’s centralized complaint portal may facilitate the process, and no doubt underscores the importance of complaints and the need to address them promptly. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Act”), the collection, investigation, and response to consumer complaints is one of the six “primary functions” of the Bureau. Specifically, the Act requires the CFPB to report annually to Congress with information and analysis about complaint numbers, types, and resolution and to submit semi-annual reports to the President and certain

Congressional committees covering a range of topics, including an analysis of complaints the Bureau has received about consumer financial products and services during the preceding year. These statutorily required activities provide useful insights and should continue.

Beginning in June 2012, the Bureau began publishing consumers' credit card complaints on a public, web-based, and searchable database. Over the next few years, the database was expanded to include a number of other product categories, including federal student loans, private education loans, and debt collection. In 2015, the Bureau expanded the database to include narratives provided by consumers about their complaints. Beginning in July 2015 and continuing until October 2017, the Bureau published a series of monthly complaint reports that included complaint volume, the most-complained-about companies, state and local information, and product trends. NCHER responded to the CFPB's June 22, 2012 Notice of Proposed Policy Statement regarding the public disclosure of consumer complaints and to the July 23, 2014 Notice of Proposed Policy Statement regarding the expansion of the database to include "unstructured consumer complaint narrative data." In both cases, our primary concern stemmed from the reputational risk attributable to the public disclosure of unverified company specific complaints. We recognize that this raw data in the aggregate may have value and that the Bureau does not have the resources to verify the legitimacy of the large volume of complaints it receives. However, the potential reputational harm to companies is real. The Bureau's disclaimer that, "We don't verify all the facts alleged in complaints," is inadequate to address the potential risk to financial institutions.

The following are NCHER's more specific comments in response to selected questions in the two RFI's on consumer complaint processes:

March 6, 2018 Notice (Docket No. CFPB-2018-0006)

The March 6, 2018 RFI requests public comments on two general areas. NCHER submits the following feedback on the general comments:

- The CFPB asks for comments about the usefulness of complaint reporting and analysis to external stakeholders. On this topic, NCHER hears from its members that they are interested in receiving specific complaints from consumers about their products and services. Our members strive to continuously improve the services provided to student and parent borrowers. By providing a centralized portal for consumer complaints and then forwarding those relevant complaints to financial institutions to respond directly to consumers, the Bureau is providing a worthwhile function. Further, the publication of summary analyses prepared by the Bureau of industry-wide complaints is also useful to the public and specific product and service providers, as the reports provide a broader view of issues within particular sectors. Consumer complaints are also valuable to the Bureau, which can use them in its rulemaking efforts and in deciding where to allocate its supervisory and enforcement resources.
- The CFPB asks for specific suggestions or best practices for complaint reporting and publication, given the Bureau's statutory objectives. NCHER's major issue with the Bureau's current practice relates to the unfair publication of unverified raw complaints about specific industry participants. The Bureau has gone to great lengths to scrub complaint narratives it receives to protect the consumer's identity; however, no similar effort has been made to protect companies from the publication of unverified complaints and narratives. There is very little opportunity for a product or service provider to publicly provide its side of the story. Currently, the publicly-identified provider can respond only using generalized responses. The database is therefore asymmetric: an anonymous consumer can provide a detailed complaint about an identified provider, but the provider's only options for public response are general comments.

- As far as we know, the CFPB has never attempted to assess as a general matter the validity of complaints it publishes from consumers. NCHER recognizes that it would be impracticable for the Bureau to review each and every complaint. However, the Bureau could conduct a thorough review of a small sample of the complaints. We suspect that many complaints, even those submitted in good faith, are frivolous or unsubstantiated. The results of such a review would provide context that could be used in determining whether the Bureau's publication of certain complaints is justifiable. Absent this context, we question whether the publication of complaints constitutes good public policy.

The March 6, 2018 RFI also requests public comments on a series of specific questions. NCHER submits the following feedback on the Bureau's specific requests:

- Questions 1, 2.f, and 3.a – The RFI asks for feedback on the frequency of the CFPB's reporting of consumer complaints. As noted above, the Act requires the Bureau to submit semi-annual reports to the President and Congress on a range of topics, including an analysis of complaints. NCHER believes that the Bureau should continue to make any such reports public. We also urge the Bureau to consider whether semi-annual reports of these analyses is sufficient and whether resources devoted to more frequent reporting might be better used in providing more informative discussion. Further, while a trend analysis would seem to be valuable to industry and the public (e.g. student loan complaints are decreasing), we think the time intervals should be greater, as month-to-month and seasonal changes in the number of complaints may not be material. In some cases, such instances could be caused by any number of factors and may not reveal fundamental trends. The monthly complaint reports previously released were in our view superficial.
- Question 2.a – The RFI asks whether the Bureau should include more, less, or the same amount of information on state and local complaint trends. NCHER questions whether the publication of state and local trend data is useful, particularly as the larger participants in servicing and collections operate nationally.
- Question 2.b – The RFI asks whether it is net beneficial or harmful to publish the names of the most-complained-about companies. As mentioned above, NCHER has serious concerns about the public reporting of unverified complaints about specifically-identified companies. The reputational harm to the companies would seem to outweigh any benefit to such public reporting.
- Questions 2.d and 3.b – The RFI asks whether the Bureau should provide more, less, or the same amount of context for complaint information. NCHER thinks that additional context on reported complaints would be helpful. For example, the April 2017 complaint report, which coincidentally featured student loans as the product spotlight, revealed that student loans were the product with the highest year-to-year increase in complaints. However, the report also stated that the three-month average number of student loan complaints was 3,284. Given that there are 44 million student loan borrowers, the figure means that only seven one thousandths of one percent of all student loan borrowers filed complaints in the months covered in the report. This information would put complaints in context and provide better information to the public.
- Question 2.g - The RFI asks whether the Bureau should share more, less, or the same amount of information on particular products and services. NCHER believes that summaries of the nature of complaints regarding particular products and services are valuable, both to the public and providers of financial products and services.

- Question 4.a–d - The RFI asks for suggestions on the publication process for consumer complaint information. As noted previously, NCHER recommends that the Bureau revert to semiannual reporting of summary data, including sector totals and an analysis of complaints. We do not believe the Bureau’s reports should contain company specific data on unverified complaints. We question whether the Bureau should expend limited resources to expand public access to complaint information other than continuing the current practice where financial institutions are provided access to complaints filed by their customers.

April 17, 2018 Notice (Docket No. CFPB-2018-0014)

Much of the discussion in the April 17, 2018 RFI overlaps with that in the March 6, 2018 RFI discussed above. As such, NCHER will refrain from repeating those comments. However, one of the foci of this RFI concerns the Bureau’s responsibility of providing timely responses to consumer inquiries, as distinguished from consumer complaints. As a general matter, NCHER believes that the CFPB should have a process for responding to consumer inquiries as consumer education is an important function of the Bureau. However, we have no specific recommendations on how the Bureau should respond to consumer inquiries at this time. With that said, we do not believe financial institutions should be obligated to respond to consumer inquiries referred to them by the Bureau that do not rise to the level of being a “complaint.” We suggest that financial institutions be able to recommend to the Bureau that, in appropriate cases, certain complaints received should be re-characterized as inquiries. Once verified, such inquiries should be removed from any summary information on the company and any public database. Another set of questions in this RFI relates to the channels through which the Bureau receives consumer complaints and inquiries. NCHER has no comments concerning this set of questions other than to say that the Bureau’s processes should not be viewed as discouraging the filing of complaints.

Thank you for the opportunity to provide these comments on the consumer complaint process. If you have any questions or need additional information, please feel free to contact me at [jbergeron@ncher.us](mailto:jbergeron@ncher.us) or at (202) 822-2106.

Sincerely,



James P. Bergeron  
President