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June 4, 2018

VIA ELECTRONIC SUBMISSION

Ms. Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street N.W.
Washington, D.C. 20552

**Re: Request for Information Regarding Bureau Public Reporting Practices
of Consumer Complaint Information (Docket No. CFPB-2018-0006)**

Dear Acting Director Mulvaney and Ms. Jackson:

On behalf of the undersigned State Attorneys General, we write in response to the Consumer Financial Protection Bureau's (the "CFPB") request for comments and information regarding its "public reporting practices of consumer complaint information," in particular the public consumer complaint database the CFPB maintains on its website.¹ As the chief consumer protection officers of our states, we have found the database to be an invaluable resource to identify trends and patterns, and to determine if an issue is widespread or isolated. In addition to the benefits the database provides to our offices and other state consumer protection agencies, it also represents an admirable commitment to transparency that benefits all Americans.

History of the Consumer Complaint Database

The consumer complaint database that exists today was created as part of a lengthy deliberative process in which the CFPB solicited and considered the views of all relevant stakeholders, including industry groups.

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, 124 Stat. 1376 (2010) ("Dodd-Frank"), set forth six "primary functions" of the CFPB, including "collecting, investigating, and responding to consumer complaints" and "collecting, researching, monitoring, and *publishing* information relevant to the functioning of markets for

¹ <https://www.consumerfinance.gov/data-research/consumer-complaints/> (last visited June 4, 2018).

consumer financial products and services to identify risks to consumers and the proper functioning of such markets.”² Dodd-Frank also charged the CFPB with ensuring that “consumers are *provided with* timely and understandable information to make responsible decisions about financial transactions” and that “markets for consumer financial products and services operate *transparently* and efficiently to facilitate access and innovation.”³

On December 8, 2011, the CFPB issued a proposed policy statement on making certain consumer complaints publicly available,⁴ and sought comments from the public.⁵ The policy statement expressed the CFPB’s view that making consumer complaints publicly available would allow consumers to make better-informed decisions, consistent with the CFPB’s statutory mandate.⁶ The CFPB proposed a database in which consumers would be required to provide certain information about the nature of their complaint by selecting pre-determined options (*i.e.*, checking boxes or selecting from a drop-down menu) and narrative entries (where the consumers could describe the problem in their own words).⁷ While the CFPB would not conduct a formal vetting process of the complaints, it would only post complaints that meet all of the CFPB’s criteria, including that the consumer has a commercial relationship with the company.⁸ Moreover, the database contains an explicit disclaimer that the CFPB has not verified any of the complaint’s allegations.⁹

² See 12 U.S.C. §§ 5511(c)(2), (3) (emphasis added).

³ See *id.* §§ 5511(b)(1), (5) (emphases added).

⁴ On July 11, 2011, the CFPB first began accepting consumer complaints, and those complaints were limited to complaints about credit cards only. See Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. 37,558-01, 37,559 (June 22, 2012). By March of 2012 the CFPB was also accepting consumer complaints regarding mortgages, bank products and services, private student loans, and other consumer loans. See Disclosure of Consumer Complaint Data, 78 Fed. Reg. 21,218-01, 21,219 (Apr. 10, 2013).

⁵ See Disclosure of Certain Credit Card Complaint Data, 76 Fed. Reg. 76,628-01 (Dec. 8, 2011).

⁶ See *id.* at 76,630.

⁷ See *id.* at 76,629.

⁸ See Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. at 37,561.

⁹ Currently, the disclaimer appears at the top of the database and reads, in full, as follows:

Consumer complaints are added to this public database after the company has responded to the complaint, confirming a commercial relationship with the consumer, or after they’ve had the complaint for 15 calendar days, whichever comes first. We don’t verify all the facts alleged in complaints, but we do give companies the opportunity to publicly respond to complaints by selecting responses from a pre-populated list. Company-level information should be considered in the context of company size and/or market share.

CFPB, *Consumer Complaint Database*, available at https://www.consumerfinance.gov/data-research/consumer-complaints/search/?from=0&searchField=all&searchText=&size=25&sort=created_date_desc (last visited June 4, 2018).

The CFPB was acutely aware of the need to maintain consumer privacy, and so while the proposal noted that the database would be made available to the public in a fully searchable and downloadable format, the public could only see certain fields:

The CFPB proposes to make certain fields of the non-narrative complaint data available to the public in fully searchable and downloadable format. To protect consumers' privacy, the database will not include non-narrative fields that expressly call for personally identifying information ("PII") (*i.e.*, the name and address fields). The database will include data fields that cover the type of complaint, the issuer involved, the date of the complaint, and the zip code of the consumer. The disclosed field data for each complete complaint will be linked by a unique identifier, enabling outside reviewers to aggregate and correlate the data as they wish. The CFPB intends to provide, with each data release, information about the limitations of the data disclosed, including appropriate disclaimers as to accuracy and representativeness.¹⁰

After a complaint is filed, the CFPB determines whether the complaint concerns a company subject to the CFPB's supervision and enforcement authority and, if so, forwards the complaint to the company. Once a company receives a complaint, it has the opportunity to check its records to confirm it has a relationship with the consumer. If the company does not have a relationship with the consumer, then it sends the complaint back to the CFPB, and the CFPB makes additional attempts to find the correct company. If the company does have a relationship with the consumer, then the company investigates the complaint, responds to the consumer's complaint, and determines what action, if any, to take. The company reports the outcome to the CFPB and provides a copy of its response letter, which is included in the database.¹¹

On June 22, 2012, the CFPB issued its final policy, which noted the "substantial public feedback expressing a range of viewpoints" it had received, including comments from industry groups objecting to the database and comments from consumer advocates praising the database.¹² The CFPB described these comments at length, including the reasons why the CFPB agreed or disagreed with them.¹³

The CFPB's consumer complaint database went "live," on June 19, 2012, and the CFPB began issuing periodic reports highlighting trends from the database,¹⁴ specific industries,¹⁵ and particular groups of consumers.¹⁶

¹⁰ See Disclosure of Certain Credit Card Complaint Data, 76 Fed. Reg. at 76,631 (footnotes omitted).

¹¹ See *id.* at 76,629, 76,632.

¹² See Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. at 37,560.

¹³ See *id.* at 37,561-37,566.

¹⁴ See, e.g., CFPB, *Consumer Response: A Snapshot of Complaints Received*, Oct. 10, 2012, available at https://files.consumerfinance.gov/f/201210_cfpb_consumer_response_september-30-snapshot.pdf (last visited June 4, 2018)

In addition to having access to the public-facing database, since December 11, 2012, state agencies like ours have been given access to a secure portal that allows us to view information the general public cannot (such as the narratives provided by consumers).¹⁷ As the CFPB announced at the time, its “goal in sharing consumer complaints with state agencies is to enhance efficient, transparent, and effective government to better protect American consumers.”¹⁸

Our Offices’ Use of the Consumer Complaint Database

As the CFPB itself predicted,¹⁹ the consumer complaint database has been an invaluable resource for identifying trends and patterns, particularly in light of the fact that over a million consumers have filed complaints. Given the CFPB’s national role as the agency dedicated to consumer financial protection, its high public profile, and well-funded education campaigns, consumers across the country are likely to file complaints with the CFPB. When hundreds or even thousands of consumers file complaints against the same company regarding the same product, it may suggest a widespread problem. Because the database allows users to narrow searches based on the consumer and/or company’s geographic location, we have real-time access to information about issues affecting our states’ consumers.

We have used information gleaned from the CFPB’s database in connection with investigations into debt collection companies, student loan servicers, for-profit universities, and other companies whose misconduct was initially brought to our attention through a critical mass of complaints filed with the CFPB.

The nature of complaints can also provide information about the broader economy and society that helps inform law enforcement initiatives. For example, a substantial increase in the number of complaints against so-called debt restructuring companies or payday lenders may indicate an economic downturn, or provide evidence of predatory lenders targeting certain groups.²⁰

¹⁵ See, e.g., CFPB, *Mid-Year Update on Student Loan Companies*, Apr. 2014, available at https://files.consumerfinance.gov/f/201404_cfpb_midyear-report_private-student-loans-2014.pdf (last visited June 4, 2018).

¹⁶ See, e.g., CFPB, Office for Older Americans, *A Snapshot of Debt Collection Complaints Submitted by Older Consumers*, Nov. 2014, available at https://files.consumerfinance.gov/f/201411_cfpb_snapshot_debt-collection-complaints-older-americans.pdf (last visited June 4, 2018); CFPB, Office of Servicemember Affairs, *Complaints Received from Servicemembers, Veterans, and Their Families*, Mar. 2014, available at https://files.consumerfinance.gov/f/201403_cfpb_snapshot-report_complaints-received-servicemembers.pdf (last visited June 4, 2018).

¹⁷ It is not clear whether changes made to the public-facing database would impact access by state law enforcement to the secure portal.

¹⁸ See Scott Pluta, *Sharing Consumer Complaint Data with State Agencies*, CFPB, Dec. 11, 2012, available at <https://www.consumerfinance.gov/about-us/blog/starting-today-sharing-consumer-complaint-data-with-state-agencies/> (last visited June 4, 2018).

¹⁹ See Disclosure of Certain Credit Card Complaint Data, 77 Fed. Reg. at 37,561-37,564.

²⁰ Indeed, a 2014 empirical study of 110,000 complaints in the CFPB database found a correlation between complaint rates and race: “[E]ven after controlling for quarter-, state-, and company-fixed effects,

Benefit to the Public

While the database has proven an invaluable resource in our investigations, it has also proven useful to consumers at large, in a number of different ways.

First, the database empowers consumers to educate themselves about financial decisions, options in the marketplace, and how to avoid bad actors.

Second, the visibility of the database also incentivizes companies to treat their customers fairly. As a recent Bloomberg editorial urging the CFPB to maintain the public's access to the database observed, one of the numerous benefits of a transparent database includes that it "pushes companies to be more responsive," noting that "some 97 percent of complaints get a timely response."²¹ Moreover, responsible companies should welcome the database, because it allows them to better understand their customers, and gives the companies the opportunity to spot problems and take corrective action. As the accounting firm Deloitte explained in a 2013 report regarding the complaint database, analyzing the data "can help financial institutions understand their own internal complaint issues and databases as they relate to data from Consumer Complaint Database, and use the resulting insights to potentially improve their regulatory compliance efforts, customer experience, and their own operational effectiveness."²²

Third, the complaints may reveal patterns of widespread misconduct. For example, an analysis of debt collection complaints revealed that a significant number of debt collectors were unlawfully attempting to collect on time-barred debt.²³ More recently, since Equifax announced a massive data breach in September 2017, more than 20,000 consumers have filed complaints about the company with the CFPB, many of which were not about the data breach but about other potential issues at the company.²⁴ The CFPB and its state counterparts can use this information to analyze the issue and determine what steps, if any, to take.

the complaint rates are statistically higher in ZIP codes with higher concentrations of African-Americans, Hispanics, and seniors. For the most controlled specifications, the complaint rate falls statistically as the median income of a ZIP code rises but increases with the median income of African-American or Hispanic residents." See Ian Ayres, Jeff Lingwall, Sonia Steinway, *Skeletons in the Database: An Early Analysis of the CFPB's Consumer Complaints*, 19 Fordham J. Corp. & Fin. L. 343, 364 (2014).

²¹ See Editorial, *Let Consumer Complaints See the Light of Day*, Bloomberg, Apr. 29, 2018, available at <https://www.bloomberg.com/view/articles/2018-04-29/save-the-cfpb-s-consumer-complaint-database> (last visited June 4, 2018).

²² See Deloitte, *CFPB's Consumer Complaint Database: Analysis Reveals Valuable Insights*, Sept. 2013, at p. 2, available at <https://www2.deloitte.com/us/en/pages/financial-services/articles/consumer-financial-protection-bureau-cfpb-consumer-complaint-database.html> (last visited June 4, 2018).

²³ See National Consumer Law Center, *Zombie Debt: What the CFPB Should Do About Attempts to Collect Old Debt*, Jan. 2015, at p. 8 n. 32, available at https://www.nclc.org/images/pdf/debt_collection/report-zombie-debt-2015.pdf (last visited June 4, 2018).

²⁴ See Neil Haggerty, *Equifax Breach Shows Need for Public CFPB Complaints: Dem Senators*, Vox.com, Apr. 30, 2018, available at <https://www.americanbanker.com/news/equifax-breach-shows-need-for-public-cfpb-complaints-dem-senators> (last visited June 4, 2018).

Finally, the database represents a commitment by the CFPB to honor not only the letter but the spirit of its statutory mandate to bring more transparency to consumer financial transactions by, *inter alia*, ensuring that corporate misconduct will not be shielded from public view.

* * * * *

For these reasons, we urge the CFPB to maintain a public consumer complaint database, in the interest of the CFPB's state law enforcement partners, and in the interest of the public at large. We hope the CFPB will find this comment useful as it deliberates this vitally important issue.

We are submitting this letter with the expectation that the CFPB will respect the request for comments and information process it has initiated and will carefully weigh the comments it receives. Unfortunately, press reports suggest that a decision has already been made concerning the CFPB's public database.²⁵ These comments, if accurate, suggest the CFPB's request for comments and information is meant to paper over a decision already made. We urge the CFPB to retain the public consumer database as it serves consumers, state law enforcement, and honest businesses.

Respectfully submitted,



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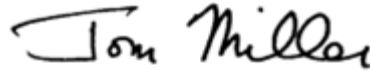


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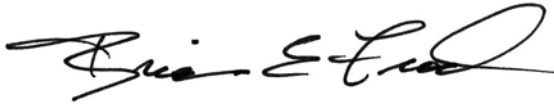
²⁵ In particular, these reports indicate that Acting Director Mulvaney announced in his April 24, 2018 speech to the American Bankers Association that he had decided to shut down the public complaint database, stating that nothing in Dodd-Frank “says I have to run a Yelp for financial services sponsored by the federal government.” See Glenn Thrush, *Mulvaney, Watchdog Bureau’s Leader, Advises Bankers on Ways to Curtail Agency*, N.Y. Times, Apr. 24, 2018, available at <https://nyti.ms/2FelZMe> (last visited June 4, 2018).



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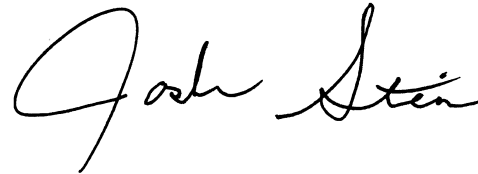
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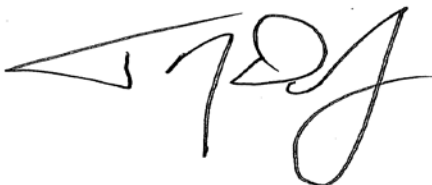
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