

ConsumersUnion®

POLICY & ACTION FROM CONSUMER REPORTS

May 25, 2018

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

RE: Request for Information Regarding Bureau External Engagement [Docket No. CFPB-2018-0005]

Dear Ms. Jackson:

Consumers Union¹ the advocacy division of Consumer Reports, writes in response to the Consumer Financial Protection Bureau's (CFPB) Request for Information (RFI) on its public and non-public external engagements.² We strongly support the CFPB's external engagements as a proven conduit for the CFPB to learn first-hand about the financial challenges faced by individuals and their communities, and to detect harmful trends in the marketplace.

The CFPB is seeking comments on all aspects of conducting future external engagements, including, among other things, strategies for seeking public and private feedback from diverse external stakeholders, and strategies for distributing information about external engagements to maximize awareness and participation.³ External engagement is a cornerstone of the CFPB's ability to carry out its mission of "ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive."⁴ provides opportunities for the CFPB to explain the rationale for its decisions, solicit feedback on CFPB proposals, disperse information, and inform the public about steps taken to police the marketplace to protect consumers from unsafe financial products and services. It promotes transparency and accountability. The public can evaluate for itself whether the CFPB is working to accomplish its mission.

¹Consumers Union is the advocacy division of Consumer Reports, an expert, independent, non-profit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. Consumers Union works for pro-consumer policies in the areas of financial services, as well as telecommunications, health care, food and product safety, energy, telecommunications, privacy and data security, and competition and consumer choice, among other issues, in Washington, DC, in the states, and in the marketplace. Consumer Reports is the world's largest independent product-testing organization, using its dozens of labs, auto test center, and survey research department to rate thousands of products and services annually. Founded in 1936, Consumer Reports has over 7 million subscribers to its magazine, website, and other publications.

²The RFI on supervision processes is available at:
https://files.consumerfinances.gov/f/documents/cfpb_rfi_external_engagements_022018.pdf

³Id. at page 6.

⁴See, 12 U.S.C. Section 5511(a).

For these reasons, we urge the CFPB to maintain its commitment to keeping a robust, direct, and ongoing engagement with the American public.⁵

Background – The Importance of the CFPB

The CFPB was established following the financial crisis a decade ago, when Congress recognized a gap in consumer protection and enforcement that allowed unfair, deceptive, and abusive practices in the financial sector to proliferate. Over the years, the CFPB has taken essential steps, long overdue, to protect consumers in this marketplace. Since it was launched in 2011, the CFPB has won almost \$12 billion in refunds and relief for an estimated 29 million Americans who were harmed by financial companies, and has helped to resolve nearly one million consumer complaints involving problems with mortgages, credit cards, car loans, bank accounts, debt collection, and a variety of other issues.⁶ Notable achievements by the CFPB for consumers include:

- Ensuring mortgages are affordable, by adopting rules to prevent the kind of reckless lending practices by banks that led to a record number of Americans losing their homes and that triggered the country’s deep recession in 2008;
- Taking on deceptive credit card marketing, by ordering credit card companies to pay back \$3.48 billion to consumers who had been defrauded into accepting unnecessary and costly add-on products and services, such as debt protection and credit monitoring;
- Providing prepaid card users with strong protections, by adopting rules that require prepaid card issuers to provide better fee disclosures, as well as the same strong protections limiting a consumer’s financial exposure to unauthorized and fraudulent use that come with traditional debit and credit cards;
- Challenging abusive student loan practices, such as by suing Navient, the nation’s largest student loan servicer, for giving borrowers inaccurate information, processing payments incorrectly, and failing to take appropriate action to address consumer complaints;
- Protecting consumers from deceptive reverse mortgage ads that tricked consumers into believing they could not lose their homes with a reverse mortgage; and
- Combating misleading credit score ads and promotions, by holding TransUnion and Equifax accountable for deceiving consumers about the usefulness and cost of the credit scores they marketed.

These achievements were possible, in large part, because of the CFPB’s ability to listen to and gain insight from experts, consumers, and other stakeholders whose diverse experiences and perspectives help inform its work. Maintaining and enhancing the CFPB’s public engagements is critical to ensuring that these achievements continue.

Discussion

- External Engagements Work

⁵See, “Open Government”, Consumer Financial Protection Bureau (2017).

⁶See, Factsheet, Consumer Financial Protection Bureau: By the numbers (July 2017).

Listening and responding to consumers is central to the CFPB's mission.⁷ Engaging with the public on consumer financial issues ensures that consumers and other interested parties have visibility into the CFPB's work and have meaningful opportunities to express their views. That in turn ensures that the CFPB's work is informed by regular input from varied perspectives representing distinct points of view.⁸ Moreover, public engagements give a voice to individuals and communities who might otherwise have difficulty accessing the regulatory process. It increases the public's understanding of financial issues and the role the CFPB plays in ensuring a safe marketplace.

Since its inception, the CFPB has held nearly 50 open meetings, field hearings, town halls, and roundtable discussions, in more than 41 different locations throughout the country.⁹ In addition, the CFPB's Office of Servicemember Affairs has visited 176 military installations providing tips and advice for servicemembers, veterans, and their families as they face financial decisions throughout the military lifecycle.¹⁰ These kinds of meetings foster an open and transparent dialogue between the CFPB and the public that allows for the free exchange of viewpoints and constructive public discourse on financial products and services. If the CFPB is not doing enough to protect consumers in the marketplace, the CFPB will hear about it at these meetings. The CFPB will be held accountable.

We therefore support the CFPB's public engagements goals and encourage the CFPB to do more to enhance its public outreach. We urge the CFPB to increase its presence in urban, rural, culturally and economically diverse areas, giving a voice to all Americans who rely on financial products and services for their financial well-being. The CFPB should work with state and local community groups to select locations and meeting times that will maximize participation.

- **Advisory Boards – The Eyes and Ears of the Marketplace**

Congress did not want the Bureau to carry out its mission in isolation, keeping only its own counsel. It wanted a more formal channel of public outreach and communication to ensure actual engagement with the public. To that end, Congress directed the Director of the CFPB to establish a Consumer Advisory Board (CAB) "to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information."¹¹

The CAB provides external feedback on a range of topics, including consumer engagements, policy development, and research. It also obtains input from external stakeholders on some of the most challenging issues faced in the marketplace, including tools for measuring financial well-being, ways to prevent and respond to elder financial abuse, and reaching limited-English-

⁷See, "Report of the Consumer Financial Protection Bureau Pursuant to Section 1017(e)(4) of the Dodd-Frank Act, December 30, 2013.

⁸See, "The CFPB Strategic plan, budget, and performance plan and report, February 2016.

⁹See, "Report of the Consumer Financial Protection Bureau Pursuant to Section 1017(e)(4) of the Dodd-Frank Act, December 30, 2013.

¹⁰Id.

¹¹Dodd-Frank Act Pub. L No. 111-203, Section 1014(a). The Consumer Advisory Board was chartered and established in September 2012.

speaking consumers.¹² CAB membership is open to the public and is diverse in gender, ethnicity and geography. Importantly, through the CAB, the CFPB obtains feedback on whether its current work is on track, and gathers intelligence to ensure that its future efforts are appropriately directed.

Accordingly, we strongly support the mission and goals of the CAB. We urge the CFPB to use the CAB and other resources¹³ to aggressively survey the country to identify problems, explore solutions, seek input from stakeholders, and address financial concerns before they cause consumers and the marketplace harm. We further urge the CFPB to increase the frequency of CAB meetings, continue to have CAB meetings open to the public, and continue to make the CAB materials available to the public.

- Public Consumer Complaint Database Increases Transparency and Accountability for All

The CFPB is the first federal agency solely focused on consumer financial protection, and consumer complaints are instrumental to that work.¹⁴ The CFPB's Office of Consumer Response hears directly from consumers about the challenges they face in the marketplace, brings their concerns to the attention of financial companies, and assists in addressing the complaints. And, with the consumer's permission, the CFPB can publicly post complaint narratives that describe, in the consumers' own words, their experiences in the marketplace. The narratives put the complaint in context, and allow members of the public to assess the validity of the complaint and draw their own conclusions. For many consumers, filing a complaint with the CFPB is the last resort after they attempted, but failed, to get their complaint resolved on their own. Over a million people have filed complaints with the CFPB, and of those, approximately 97% receive a quick response from the company -- due in large part to the CFPB's involvement.¹⁵

The Consumer Complaint Database (Database) is an essential tool in public engagement. It, too, promotes transparency and accountability for the benefit of all stakeholders. Consumers use the Database to evaluate products and make better choices;¹⁶ the industry uses The Database to identify and correct lapses in customer satisfaction; and regulators use it to help determine their regulatory priorities. Consumers Union fought for the creation and continued sustainability of this Database. We strongly urge The CFPB to keep the Database open to the public.

In addition, we urge the CFPB to continue publication of its Monthly Complaint Report, last published in October 2017, the Special Edition Monthly Complaint Report, and other special complaint reports. These reports provide a snapshot analysis of consumer complaint trends, and highlight complaints received about a particular product, from consumers in a particular

¹² See, "Semi-annual report of the Consumer Financial Protection Bureau (October 15-March 31, 2016).

¹³ Also see, The Community Bank Advisory Council (CBAC), The Academic Research Council, and the Credit Union Advisory Council (CUAC). The CFPB has organized 47 meetings of its advisory boards/councils.

¹⁴ See, "CFPB Monthly Complaint Report, Vol 24, June 2017.

¹⁵ See, cfpb.gov, last visited on May 25, 2017.

¹⁶ See, Consumers Union, "The CFPB's Consumer Complaint Database Shines a Light on the Financial Services Industry."

state or city. The reports are an invaluable resource for consumers, researchers, regulators, and companies on what is going on in the marketplace. We will be providing detailed comments on this issue in a response to the RFI on public reporting practices.¹⁷

- Technology Increases Public Engagement

The use of technology is an effective, cost-saving way to engage the public. We support the CFPB's use of online outreach and social media to elicit comments on proposed rules, worksheets and disclosures.¹⁸ For example, the CFPB used the internet to elicit feedback on its integrated Truth-in-Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA) forms.¹⁹ The Bureau received over 150,000 visits to its "Know Before You Owe" website, and over 27,000 text box comments and emails on the form. Readers had the chance to submit comments on the sample form online, and also in response to an October 2011 blog entry on the form.²⁰ The comments were helpful in suggesting how to fix flaws in the prototype forms. For student loans, the CFPB blogged and posted a sample financial aid worksheet to its website for public comment. Over 20,000 consumers viewed the draft form online.²¹ After reviewing the comments, the CFPB posted a summary of the feedback online and transmitted it to the Department of Education.²² Later, the CFPB released the Financial Aid Comparison Shopper, an interactive online worksheet that helps families compare the cost of college education and financial aid offers across schools.²³ Over 3,270 colleges voluntarily adopted the worksheet.²⁴

In addition, the CFPB effectively used social media to elicit early feedback on its prepaid card rule, overdraft protection, certifications and designation of financial planners and advisors, and other consumer protection issues.²⁵

These are but a few examples of how the CFPB has used technology for public outreach and engagement. We urge the CFPB to continue to build upon its commitment to using technology as an efficient and useful tool for enhancing public engagement.

Conclusion

¹⁷Request for Information Regarding Bureau Public Reporting Practices of the Consumer Complaint Information, Docket No. CFPB -2018-0006.

¹⁸See, Patricia McCoy, "Public Engagement in Rulemaking: The Consumer Financial Protection Bureau's New Approach, Boston College Law School. (2012).

¹⁹See, CFPB, "Integrated Mortgage Disclosures under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (regulation Z): Proposed Rule with Request for Public Comment, at 29-32 (2012).

²⁰See, See, Rohit Chopra, "Know Before You Owe: Let's Tackle Student Loans, CFPB (October 26, 201).

²¹ Id.

²² See, Rohit Chopra, Your Feedback on Know Before You Owe: Student Loans, CFPB (Jan. 27, 2012), <http://www.consumerfinance.gov/blog/your-feedback-on-know-before-you-owe-student-loans/>.

²³CFPB Press Release, "Consumer Financial Protection Bureau Releases Financial Aid Comparison Shopper (April 11, 2012), <http://www.consumerfinance.gov/blog/paying-for-college-help-us-make-it-easier-for-you-to-choose/>

²⁴See, Factsheet, CFPB by the numbers (2017).

²⁵ See, Patricia McCoy, supra.

The CFPB's public engagement activities help it shape policy, set priorities, develop regulatory options, and evaluate the effectiveness of its regulatory choices. It increases public awareness and promotes transparency and accountability. The public can determine for itself if the CFPB is fulfilling its mission. As the RFI process moves forward, we urge the CFPB to keep its mission foremost in view: "implementing and enforcing Federal consumer financial law, for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive."²⁶

We look forward to working with you to ensure that any changes to the CFPB external engagement mandate are carefully considered and advance the important mission of the CFPB.

Sincerely,



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Consumers Union

Sincerely,



Christina Tetreault
Senior Staff Attorney
Consumers Union

²⁶12 U.S.C. Section 5511(a).