

By electronic delivery to:
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May 9, 2011

Mr. Andrew Trueblood
Bureau of Consumer Financial Protection Implementation Team
United States Department of the Treasury
1801 L Street, N.W.
Washington, D.C. 20036

Re: Bureau of Consumer Financial Protection, Consumer Response Intake Fields

Ladies and Gentlemen:

The American Bankers Association¹ and The Clearing House Association L.L.C.² (the Associations) appreciate the opportunity to respond to the Paperwork Reduction Act notice and request for comment published by the Department of the Treasury (Treasury) on March 9, 2011 (PRA Notice).³ Treasury issued the Notice pursuant to its interim authority under section 1066 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA)⁴ to stand up the Bureau of Consumer Financial Protection (Bureau), authority which it has delegated to the CFPB Implementation Team. In addition to a request for comment on the information collection burden estimate, the PRA Notice solicits comments on the “forms for questions, complaints, and other information about consumer financial products and services” that the Bureau will collect in fulfillment of its authority to collect, investigate, and respond to consumer complaints and to collect data to monitor the functioning of markets for consumer financial products and services.⁵

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation’s \$13 trillion banking industry and its two million employees. The majority of ABA’s members are banks with less than \$165 million in assets.

² Established in 1853, The Clearing House is the nation’s oldest banking association and payments company. It is owned by the world’s largest commercial banks, which employ 1.4 million people in the U.S. and hold more than half of all U.S. deposits. The Clearing House is a nonpartisan advocacy organization representing through regulatory comment letters, amicus briefs and white papers the interests of its owner banks on a variety of systemically important banking issues. The Clearing House Payments Company provides payment, clearing, and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated clearinghouse, funds-transfer, and check-image payments made in the U.S. See The Clearing House’s web page at www.theclearinghouse.org.

³ 76 Fed. Reg. 13018 (March 9, 2011).

⁴ See §1066 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. Law No.111-203, 124 Stat. 1981 (July 21, 2011).

⁵ *Id.* at § 1021(c)(3) – (4).

As stated in our comments filed in response to Treasury’s January 10, 2011, proposal to establish an Implementation Team Consumer Inquiry and Complaint Database (CIC Database),⁶ our members are strongly committed to customer service and believe that complaints should be processed promptly and with due care in order to achieve appropriate resolution. Ensuring that the intake process results in the collection of consumer complaint information that is clear and complete is essential to the prompt and appropriate resolution of individual complaints and the collection of accurate aggregate information about consumer financial products and services and the functioning of markets for those products.

Although the leadership of the Implementation Team espouses a transparency and outreach ethic that promises constructive exchange of ideas in advance of, or to supplement, the Administrative Procedure Act (APA) process, the opportunities for the banking trade associations and their members to provide interactive and comprehensive input on these important customer complaint and inquiry matters have not gone beyond the specific path of APA rulemaking. Establishing a robust and effective consumer complaint and inquiry process that achieves the primary goals of this core Bureau mission is an undertaking that implicates a broad range of issues about content, organization, and process that demands an integrated, holistic approach. We think such an approach is best conducted through an engaging and facilitative process.

Instead, public engagement is being invited through perhaps the least effective of all notice and comment processes—the PRA Notice. While the current PRA Notice, like the January 10, 2011, Federal Register notice proposing the establishment of a CIC Database, satisfies the regulatory requirement of the APA rulemaking process, it does not provide as meaningful an opportunity for public involvement as we think is warranted for this core Bureau mission of establishing a consumer complaint process.

The PRA Notice is less than a page long and recites requests for comment typically included in information collection notices, including “ways to enhance the quality, usefulness, and clarity of the information to be collected” and “specific types of information that would be useful for the CFPB to collect.” It describes only general categories of information under consideration,⁷ significantly limiting the ability of the industry to provide valuable, practical feedback on specific proposed information fields. No proposed form has been offered for public reaction.

Despite these limitations – and reiterating the banking industry’s offer to engage in dialogue about how to establish an efficient and effective consumer complaint intake process and the steps necessary to establish the Bureau’s permanent CIC Database – the Associations offer the following general comments on the current PRA Notice.

⁶ Joint Trades Comment Letter dated February 8, 2011 located at <http://www.aba.com/aba/documents/news/CFPBletter2911.pdf>

⁷ The Notice states only: “The fields will help document information such as the type of contact; the substance of the complaint, question or other information; contact information for the person making the contact and/or related persons; information about any subject incident and institution; and identifying information about the consumer or consumer’s household.”

Discussion

It appears that the Implementation Team contemplates the establishment of one intake process and one set of information fields (to be completed on paper or online) for the collection of consumer complaints and so-called “other information” and “simple feedback.” Although the Associations recognize that DFA authorizes the Bureau to collect both consumer complaints and information about the functioning of markets for consumer financial products and services, we caution the Implementation Team against the merging of these two intake processes and forms. We believe that doing so may unnecessarily complicate intake forms, potentially impeding a consumer’s ability to complete the relevant fields, the Bureau’s ability to route complaints to the proper entity promptly, and ultimately, a bank’s ability to respond. Moreover and most important, combining the two inquiries into one form is likely to skew results, with feedback coming primarily from persons who have consumer complaints. Addressing complaints promptly and adequately is important. Although surveys show that most consumers are satisfied with their financial services, their viewpoint would likely be under-represented by combining the two forms. Without an interest in filing a particular complaint, satisfied customers would not likely be attracted to using a complaint form to register their views. Without these views adequately represented, regulatory prescriptions to address consumer issues might not adequately preserve the interests of the many who are satisfied with their financial services.

With regard to the complaint intake process and the informational fields to be completed, these should be simple and straightforward. The fields should be designed to record only facts relevant to the individual, the institution, the complaint, and the consumer’s expectations for satisfactory resolution of the complaint. The addition of fields intended to capture non-specific “other” information or feedback may confuse or distract consumers, resulting in the degradation of the quality, usefulness, and clarity of the complaint information collected or the generation of incomplete complaint forms. In addition, the inclusion of these fields may result in “complaints” being forwarded to institutions that are not in fact complaints. Our members anticipate that time and resources that might otherwise be devoted to *resolving* complaints may be diverted to customer follow-up to determine if a consumer has a specific complaint or to request additional information.⁸

Moreover, banks currently receive consumer complaints from a variety of sources, including federal and state bank regulators, attorneys general, state or federal representatives, and the Federal Trade Commission. Despite intentions for the Bureau to be a centralized clearinghouse for consumer complaints, there is no reason to believe that all consumer complaints will be filed with the Bureau.⁹ Indeed, some consumers file identical complaints with multiple entities and are likely to continue to do so.¹⁰ It is our understanding that federal and state bank regulators worked

⁸ The federal banking agencies currently forward only completed consumer complaints to banks; agency employees engage in follow-up with consumers to have blank or partially completed fields filled-in or otherwise clarified. As a result, bank employees are able to concentrate on complaint resolution rather than making calls to customers to request additional information. The Associations urge the Bureau to follow a similar practice.

⁹ Certainly, the Bureau will not be the clearinghouse for FDIC insurance coverage inquiries. Nor should it be presumed that the Bureau is the appropriate point of entry for applicants pursuing responses to adverse action notices from lenders not within the Bureau’s direct supervisory or enforcement jurisdiction.

¹⁰ Our members would be pleased to have the Bureau and the prudential regulators attempt to identify duplicate complaints to facilitate the complaint resolution process. But if not for that purpose, the Bureau will have to

together to ensure consistency across the information fields on different consumer complaint forms to enable banks to process complaints from a variety of sources efficiently. The creation of a consumer complaint form that includes “other” information fields would undermine these efficiencies.

Finally, with the July 21, 2011, transfer date just twelve weeks away, the Associations urge that the creation of a workable consumer complaint intake process be made a top priority, leaving the establishment of intake forms for the collection of general consumer inquiries and comments about financial products and services until after the complaint intake process is up and running. Section 1034 of the Dodd-Frank Act directs the Bureau “to establish, in consultation with the appropriate Federal regulatory agencies, reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against or inquiries concerning, a covered person.”¹¹ Indeed, on the Bureau website the following message recognizes this primary responsibility; it states—

Today, seven Federal agencies have authority to enforce more than a dozen Federal consumer protection laws relating to financial products and services. Various state agencies enforce additional state laws. For anyone who has a problem with a financial product or service, it can be difficult to determine which agency can best help. Later this year, the consumer bureau will launch a Consumer Response Center to receive your complaints and to help you find answers for questions about consumer financial products and services.¹²

Our members recognize that their success or failure depends on responsible and efficient service to their customers. An integral part of customer service is responding promptly to customer complaints when they arise. Accordingly, a process to collect and route consumer complaints received by the Bureau to banks within the Bureau’s jurisdiction and to prudential regulators for banks under their respective jurisdictions must be established as quickly as possible. There is no similar time urgency for the collection of other information and feedback about markets for consumer financial products and services. Moreover, the collection and aggregation of this information presents issues and challenges markedly different from those related to the establishment of a consumer complaint intake process. The Associations urge the Bureau to issue a separate proposal regarding collection of this “other information” in order to provide an opportunity for all interested parties to comment and to provide focused and constructive feedback.

Conclusion

We underscore our interest in working with the Implementation Team to establish an efficient and effective consumer complaint resolution process for the Bureau. The banking industry looks forward to being able to provide practical feedback in an interactive setting about the full range of issues implicated by a comprehensive consumer complaint resolution process—from specific intake information fields to the challenges and opportunities presented by the processing of

eliminate duplicate filings to ensure an accurate count for purposes of aggregate complaint trend analysis and similar data mining applications.

¹¹ DFA, *supra* at § 1034.

¹² See <http://www.consumerfinance.gov/get-help-now/consumer-questions-and-complaints/>.

consumer complaints and the use of the data captured in that process. If you have any questions or wish to discuss these matters further, please contact me at 202-663-5051 or rriese@aba.com or Rob Hunter at (336) 769-5314 or Rob.Hunter@TheClearingHouse.org.

Once again on behalf of our members, we renew our request to engage in a true face-to-face dialogue on the expansive challenges and possible solutions that the Bureau faces in implementing the DFA mandate to collect, investigate and respond to consumer complaints and inquiries. Thank you for your consideration.

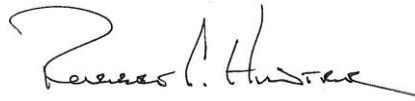
Sincerely,

American Bankers Association



Richard R. Riese
Senior Vice President

The Clearing House Association, L.L.C.



Robert C. Hunter
Deputy General Counsel