

PUBLICATION

A Treasure Trove: Publication of Complaint Data by the CFPB

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The CFPB complaint database was created with altruistic intentions. They envisioned a tool that consumers could use to search a downloadable database for research on a product or specific lender, just as they would research any other service they use in their day to day lives. But who is using this data the CFPB is collecting and publishing? You can be certain that the CFPB has, and that it will use the aggregated data to focus in on areas of concern for upcoming exams and possible enforcement actions.

Then there is the looming fear that the searchable data will be used for less benevolent purposes by plaintiffs' attorneys trolling for ammunition in their current cases against a specific lender or servicer pending in the same jurisdictions – or worse yet, for possible class actions. Remember, this data is searchable and sortable by date received, zip code, state, keywords, products, issues, sub issue and lenders.

This is troublesome enough. And when you combine it with the disclaimer language from the CFPB's own website – ***"We don't verify all the facts alleged in these complaints, but we take steps to confirm a commercial relationship"*** – troublesome turns into a nightmare. If you haven't already looked at the database, it's worth reviewing the accusations and information that are being presented. The database can be found here: <http://www.consumerfinance.gov/complaintdatabase/>.

In the CFPB's [final policy statement](#), they confirm their intention was to offer companies the option of responding to the public narrative with a public facing response of their own. This was met by an industry push back that stated in part: "companies would be limited in their ability to provide public-facing unstructured narrative responses.....limited by laws such as the Gramm-Leach-Bliley Act, Regulation P, the Fair Credit Reporting Act, Regulation V, and the Fair Debt Collection Practices Act." It would also be very costly and burdensome to staff a department trained in the risks involved in drafting responses that would be viewable by the public.

The result was the CFPB providing a set list of nine options that companies can utilize as their public response. They are:

1. Company acted appropriately as authorized by contract or law;
2. Company disputes the facts presented in the complaint;
3. Company believes the complaint is a result of an isolated error;
4. Company believes the complaint is the result of a misunderstanding;
5. Company believes complaint represents an opportunity for improvement;
6. Company believes complaint caused principally by actions of third party outside the control or direction of the company;
7. Company can't verify or dispute the facts in the complaint;
8. Company believes the complaint is a result of a discontinued policy or procedure and; and
9. Company chooses to not provide a public response.

Can you guess the most popular response? It's not surprising to learn that the industry overwhelmingly chooses number nine, No Public Response.

This database may be unfair to our industry, but while we have it, we recommend that any company that is responding to CFPB complaints review the complaints and corresponding aggregated data attributed to them in this database. It can be a quick and cost-effective way to see if you have a spike or trend in complaints for any product area, service or specific region. Customer complaints are a great way for service providers to get ahead of any issues before they become costly litigation matters.