



# The State of South Carolina Department of Consumer Affairs

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July 6, 2018

Monica Jackson  
Office of the Executive Secretary  
Consumer Financial Protection Bureau  
**Docket No. CFPB 2018-0014**  
1700 G Street NW  
Washington, DC 20552

**RE: Bureau's Consumer Complaint & Consumer Inquiry Handling Processes**

Dear Ms. Jackson:

The South Carolina Department of Consumer Affairs ("SCDCA") is pleased to offer comments in response to the Consumer Financial Protection Bureau's ("CFPB" or "Bureau") Request for Information regarding the Bureau's Consumer Complaint and Consumer Inquiry Handling Processes. SCDCA is the state's consumer protection agency. Established in 1974, SCDCA is responsible for the administration and enforcement of Title 37 of the South Carolina Code of Laws, the Consumer Protection Code. SCDCA's mission is to protect consumers from inequities in the marketplace through advocacy, mediation, education and enforcement.

SCDCA helps formulate and modify consumer laws, policies, and regulations; promotes a healthy competitive business climate with mutual confidence between buyers and sellers; and resolves complaints arising out of the production, promotion, or sale of consumer goods or services in South Carolina, whether or not credit is involved. Overall, SCDCA protects consumers while giving due regard to those businesses acting in a fair and honest manner.

### Consumer Complaint Process

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 Bureau, including, among other things, "*publishing* information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets."<sup>1</sup> Dodd-Frank also required the CFPB to ensure that "consumers are provided with timely and understandable information to make responsible decisions about financial

<sup>1</sup> 12 U.S.C. §§ 5511(c)(2), (3) (emphasis added).

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transactions” and that “markets for consumer financial products and services operate *transparently* and efficiently to facilitate access and innovation.”<sup>2</sup>

In order to meet the requirements under Dodd-Frank, the CFPB established a publicly available consumer complaint database, which was fully implemented in June 2012,<sup>3</sup> to process consumer complaints. Since then, the consumer complaint database has proven to be effective, with more than 70% of complaints filed through the online system, and approximately 97% of companies providing timely responses to consumer complaints.<sup>4</sup> Because the complaint database is publicly accessible, it also encourages companies to treat consumers fairly, and empowers consumers to become educated about their options in the marketplace and potential bad actors. Additionally, it provides companies the opportunity to identify problems and take corrective action when needed.<sup>5</sup> SCDCA believes the transparent process currently utilized by the Bureau in handling consumer complaints accomplishes the mandates set forth under Dodd-Frank and encourages the CFPB to preserve its core mission of protecting and informing consumers.

### Specific Questions

**Question 1(a). Should the Bureau require consumers to classify their submission affirmatively as a consumer complaint or inquiry prior to submission?**

If the Bureau first formally adopts a definition for “consumer inquiry,” the Department supports requiring consumers to classify submissions.

**Question 1(c). Should the Bureau develop a process for companies to reclassify consumers’ submissions?**

The Bureau should clearly define and differentiate between consumer inquiries and consumer complaints, and should ultimately determine whether submissions require reclassification. If a consumer submits a complaint, and a company disagrees with the classification as a complaint, then the Bureau should review the consumer submission and company response in order to determine whether the submission was properly classified according to the definitions and parameters set by the agency. Permitting businesses to unilaterally reclassify consumer submissions, however, would frustrate the Bureau’s objective of handling consumer complaints as an objective regulator and would create a subjective patchwork system for how consumer submissions should be classified.

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<sup>2</sup> See *id.* §§ 5511(b)(1), (5) (emphasis added).

<sup>3</sup> See CFPB, *Notice of Final Policy Statement*, available at [https://files.consumerfinance.gov/f/201303\\_cfpb\\_Final-Policy-Statement-Disclosure-of-Consumer-Complaint-Data.pdf](https://files.consumerfinance.gov/f/201303_cfpb_Final-Policy-Statement-Disclosure-of-Consumer-Complaint-Data.pdf).

<sup>4</sup> See *id.*, indicating that the CFPB requests that companies respond to complaints within 15 days, and if a complaint cannot be resolved within that timeframe, that companies may provide a final response within 60 calendar days. See also 12 U.S.C. § 5511(b).

<sup>5</sup> See Deloitte, *CFPB’s Consumer Complaint Database: Analysis Reveals Valuable Insights*, available at <https://www2.deloitte.com/us/en/pages/financial-services/articles/consumer-financial-protection-bureau-cfpb-consumer-complaint-database.html>.



As such, the Bureau should be responsible for making the final determination regarding a submission's classification. Where reclassification is required, the Bureau should notify both the consumer whose submission is deemed incorrectly classified and the appropriate business.

**Question 2(b). Consistent with the Dodd-Frank Act's definition of "consumer," the Bureau currently allows consumers to authorize someone else (e.g., lawyer, advocate, power of attorney) to submit complaints on their behalf. Should the Bureau expand, limit, or maintain the ability of authorized third parties to submit complaints?**

Because the definition of "consumer" in Dodd-Frank includes certain third parties acting on an individual's behalf,<sup>6</sup> the Bureau should maintain its position authorizing third parties to act on behalf of consumers. Restricting the ability of a third party to act on an individual consumer's behalf runs the risk of excluding some consumers, due to age, disability, mental state, etc., from availing themselves of the Bureau's services.<sup>7</sup>

**Question 3(d). Should the Bureau publish data about consumer inquiries? If so, what types of data or analyses about consumer inquiries should be shared with the public?**

SCDCA supports publication of certain data about consumer inquiries, as it would likely be beneficial to both federal and state regulators in identifying the subject(s) at issue most frequently in consumer inquiries. In order to make the data most useful, SCDCA recommends the Bureau first develop categories for consumer inquiries, similar to those currently in place for consumer complaints.<sup>8</sup> SCDCA proposes the Bureau consider publishing the following data about consumer inquiries:

- 1) Consumer state;
- 2) Industry type;
- 3) Inquiry category/topic; and
- 4) Bureau response/ Action taken.

Publishing this type of data would prove beneficial to industries in developing best practices, identifying areas for improving consumer disclosures, and auditing internal processes and procedures. Furthermore, such data provides a tool for both federal and state regulators to use in auditing current information campaigns and determining where and how to allocate resources when formulating future outreach and education initiatives.

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<sup>6</sup> 12 U.S.C. § 5481(4).

<sup>7</sup> See 12 U.S.C. § 5493(b), (d), (e), (g). Limiting the ability of certain third parties to submit complaints on behalf of individual consumers might also hinder the Bureau's ability to serve specific populations delineated in Dodd-Frank.

<sup>8</sup> See CFPB, *Consumer Response: Consumer Complaint Form Product and Issue Options*, effective date April 24, 2017, available at [https://files.consumerfinance.gov/f/documents/201704\\_cfpb\\_Consumer\\_Complaint\\_Form\\_Product\\_and\\_Issue\\_Options.pdf](https://files.consumerfinance.gov/f/documents/201704_cfpb_Consumer_Complaint_Form_Product_and_Issue_Options.pdf).



**Conclusion**

SCDCA appreciates the opportunity to comment on the Bureau's Request for Information regarding the Bureau's Consumer Complaint and Consumer Inquiry Handling Processes and encourages the Bureau to continue fulfilling its mission of providing more transparency in consumer financial transactions. Should you have any questions pertaining to our comments, please feel free to contact me at 803-734-4233.

Best Regards,

A handwritten signature in blue ink that reads "Carri Grube Lybarker". The signature is fluid and cursive.

Carri Grube Lybarker, Esq.