



June 4, 2018

Jan Stieger, CMP, CAE
Executive Director
Receivables Management Association International
jstieger@rmassociation.org
1050 Fulton Avenue, Suite 120
T +1 916 482 2462
F +1 916 482 2760

By Electronic Submission

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

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

Dear Ms. Jackson:

This letter is submitted on behalf of the Receivables Management Association International (“RMA”) in response to the referenced Request for Information Regarding Bureau Public Reporting Practices of Consumer Complaint Information (“Reporting Practices”).

We appreciate the opportunity to provide comments and information on Reporting Practices to the Bureau of Consumer Financial Protection (“Bureau”). RMA membership is composed of originating creditors, purchasers of defaulted and performing loans, and businesses and professionals that provide services to these entities. Each of these classes of members has experience with the Bureau’s complaint process. Our comments and information are therefore reflective of this range of entities.

I. INTRODUCTION

RMA is a nonprofit trade association representing more than 500 companies that purchase or support the purchase, sale, and collection of performing and non-performing receivables on the secondary market. Members of RMA include banks, debt buying companies, third-party collection agencies, collection law firms, and brokers.

RMA is a national leader in promoting strong and ethical business practices within the receivables management industry. RMA requires all its member companies who are purchasing receivables on the secondary market to become certified through RMA’s Receivables Management Certification Program (“RMCP”) as a requisite for membership (publicly available at <https://rmassociation.org/certification/>).

Certifications are granted to businesses that comply with uniform and rigorous industry standards of best practices and pass an RMA-conducted criminal background check of the business, its owners, and its executive management. All standards meet federal and state statutory requirements and many exceed these requirements or create new standards where none existed. The debt buying companies certified by the RMCP hold approximately 80 percent of all purchased receivables in the United States, by RMA's estimates.

RMCP-certified companies are subject to vigorous and recurring, independent, third-party audits to demonstrate to RMA their compliance with the Certification Program. This audit includes an onsite inspection of the certified companies to validate full integration of RMCP standards into the company's operations. Following a company's initial certification, review audits continue to be conducted every three years. Certified Companies are required to register with the CFPB for the receipt of consumer complaints, disputes, and inquiries filed with the Bureau and to respond timely in accordance with the CFPB's prescribed guidelines (see RMCP Standard # 8).

Program certification also requires RMA-certified companies to engage a chief compliance officer, with a direct or indirect reporting line to the president, chief executive officer, board of directors, or general counsel of the company. The chief compliance officer must maintain individual certification through the RMCP by completing 24 credit hours of continuing education every two years.

Our comments and information reflect the experiences of large, publicly-traded companies as well as small businesses that have reviewed the Bureau's periodic published reports ("Reports") and downloaded information from the Customer Complaint Database ("Database"). We contend that changes to the Reporting Practices are needed to ensure that the information is not provided in a manner that invites misinterpretation, which has the potential to cause harm to both consumers and financial industry participant companies ("Companies"). While some of the changes we recommend are intrinsic to the reporting processes, others cannot be effected without substantial changes to the Consumer Complaint Process ("Complaint Process") and the Consumer Complaint Portal ("Portal") that supports it.

Our comments are summarized as follows:

- Because the Complaint Portal fails to capture customer concerns accurately, the Database and the Reports do not present an accurate picture of the issues being raised by consumers.
- The summaries of consumer comments currently included in Reports do not accurately represent the mix of issues presented by consumers. If these summaries are continued, the methods used to summarize them should be changed to ensure proper representation.
- The monthly reporting frequency is excessive, particularly as the Reports fail to distinguish between random and seasonal variations and other trends that warrant attention. This risk is greater when reports are issued more frequently.
- Treating all issues communicated through the Complaint Process as "complaints" is misleading. This is especially important in the debt collection arena, because only a minority of contacts via the Complaint Process represent any claim of illegal or objectionable behavior.

- Undue focus on volume, in the absence of relevant context, leads to misleading impressions. When making comparisons in the Reports between industries or between Companies within industries, relevant context should be provided.
- Undue focus on the largest market participants may draw attention away from bad actors that may not even be legitimate businesses. Complaints against companies that are not matched to Portal accounts, which cannot be definitively identified or located, should *not* be acknowledged and summarized in Reports and in the Database.

II. COMMENTS

A. Comments on Suggested Topics

In this Section, we provide comments on each of the suggested Topics provided in the RFI.

1. Frequency of Reporting [RFI 1]

Specific, statutorily-permissible suggestions regarding the frequency of the Bureau's reporting on consumer complaints

Monthly frequency is unwarranted

Quarterly or even annual reviews would be sufficient. Not only would this be more efficient, but it would also reduce the risk of ascribing special significance to monthly changes that are merely the product of normal variation. If new trends or patterns emerged in the interim between reports, a Special Edition Complaint Report could be published.

2. State and Local Trends [RFI 2.a]

Whether the Bureau should include more, less, or the same amount of reporting on State and local complaint trends

Only valuable when there is something significant

The reporting seems without purpose. It is not clear why a particular state or locality has been chosen for any particular report. It would be preferable to focus on a particular locality where a trend or pattern has been identified, and if none meet this condition, then the section should be eliminated. This would likely result in less reporting, but would ensure that the reporting was of value when it did appear.

Need to distinguish signal from noise

When data on a particular state or locality is provided, it is not clear whether the data is within a normal or expected range when compared to the national average and the observed variation between locations. This makes it impossible for a reader to know whether there is any "signal" amid the "noise" of the data presented. As a result, it remains unclear whether there is anything of significance worthy of the reader's attention.

Need to offer explanations and cite factors that make the locality distinctive

When data for a particular locality does diverge from the national average, some attempt should be made in the report to suggest explanatory factors or hypotheses about the difference. For example, demographic and economic factors, different patterns in consumption or the incidence of major natural disasters should be considered. However, it should be very clear that such hypotheses are speculative, and great care should be taken to avoid presenting such hypotheses as conclusions.

3. Most-complained-about companies [RFI 2.b]

Whether it is net beneficial or net harmful to the transparent and efficient operation of markets for consumer financial products and services for the Bureau to publish the names of the most-complained-about companies

Undue focus on volumes obscures other issues

As currently presented, publication of the names of the most-complained-about companies is net-harmful because the absence of information is likely to lead to false conclusions amongst stakeholders. The absence of certain qualifying information contributes to the risk of misinterpretation, in the following ways:

- *Differences size and scope.* There is a risk of harm to companies when their complaint volumes are not placed in the context of relative size. For example, a major national bank would be expected to have higher volume than a small regional bank because of the scale and breadth of its operations. However, the small regional bank might have a higher rate of complaints when expressed on a per-customer or per-account basis. In this scenario, the major bank might suffer harm due to customers preferring the smaller bank, despite having complaint rates that suggest it offers a better overall service; in this case, the consumers making such a selection would therefore also be harmed. See comment II.A.5.
- *Differences in product mix.* Nor is there any consideration of how product mix might drive differences in complaint volumes. For example, two banks of roughly equal customer bases may offer different products, each of which carry their own particular risk profiles.
- *Distinguish account-centric issues from behavioral concerns.* In debt collection, a significant majority of the complaints received through the Portal are concerned with account information (such as requests for debt verification, disputes of amounts owed, disputes of responsibility for accounts, technical questions about credit report data, and so forth). We believe there is a critical difference between these types of allegations and those that allege unfairness, deception and abuse, or violations of law. By considering all the issues raised as “complaints” in the data creates a misleading impression for consumers of the data and presents an unfairly negative impression of our industry. For further detail, see comment II.B.3.

4. Data fields [RFI 2.c]

Whether the Bureau should provide more, less, or the same data fields in the Consumer Complaint Database

Duplicates and repeat complaints

Although, according to our understanding, duplicate complaints are excluded from the Database, it is nonetheless possible for it to contain multiple non-identical complaints by the same consumer on the same account. A field should be added to indicate this, allowing identification of consumers complaining repeatedly on the same account. This should be possible without the need to gather additional information during the complaint process.

Underlying product type

We note that debt collection and credit reporting differ from the Bureau's other product categories, such as mortgages and credit cards, in one important respect: consumers do not choose which credit reporting agencies report their credit history, nor which collection agencies collect upon their debts when they become delinquent. The Bureau should endeavor to determine, by a modification to the complaint process, the underlying product associated with each complaint and this should be included in the Database.

5. Context [RFI 2.d]

Whether the Bureau should provide more, less, or the same amount of context for complaint information, particularly with regard to product or service market size and company share

Normalize the data

While it may not be possible to find one metric that makes all numbers comparable across companies and products, some different perspectives should be presented for consideration. A solid estimate of service market size would enable comparisons between products on a per-account, per-customer, or per-dollar basis to identify the products with the highest risk. Credit bureau reporting tradeline volumes may also provide useful context. Similarly, the Bureau could broadly classify companies by size bands (*e.g.*, Large-Medium-Small) when making comparisons between them. For example, the RMCP defines market size as follows:

- *Large* (parallels definition of "large participant") – More than \$10 million in annual receipts resulting from consumer debt collection;
- *Medium* – \$2 million to \$10 million in annual receipts resulting from consumer debt collection; or
- *Small* – Less than \$2 million in annual receipts resulting from consumer debt collection.

See also comments II.A.2 and II.A.8.

6. Observations of company responses [RFI 2.e]

Whether the Bureau should supplement observations from consumer complaints with observations of company responses to complaints

Third-party interpretation of Company responses is problematic

It is tempting to think that a review of company responses would enable the Bureau to assess the quality of a Company's responses and to determine from them which complaints have merit.

However, our experience suggests that a third party will not be able to determine either of these with any reliable confidence. Attempting to evaluate response quality or complaint merit at scale is likely to introduce an unacceptable level of subjectivity and inconsistency. The summaries of consumer narratives already being published do not suggest that the Bureau has a sound process for such analysis. For more information, see comment II.B.3.

Identify common misunderstandings to be addressed in Consumer Education efforts

Many complaints are founded on a faulty understanding of the law or of industry practices. Our members often have to explain, repeatedly, terms and industry practices in their responses.

Consumers frequently present the following false claims in their complaints:

- on a national basis, lapse of the statute of limitations on a debt makes it uncollectible and/or makes it ineligible for credit bureau reporting;
- charging off an account eliminates the debt;
- a “wet ink” signature on a credit application is required to verify a debt; and
- collection calls are not subject to the “Do Not Call” registry.

A review of company responses could potentially be productive and would be a useful input to consumer education efforts.

7. Month-to-month trends [RFI 2.f]

Whether the Bureau should share more, less, or the same amount of information on month-to-month trends

Look for trends every month, comment only if trends appear

It is rare for any month-to-month trends to be of any consequence; although, this has been seen, most recently, in the case of student loan complaints, which rose very dramatically in late 2016 and early 2017. We would expect the Bureau to monitor on, at least, a monthly basis, and if the reporting frequency remains monthly (see comment II.A.1), to state whether anything of note was found. If something beyond normal and seasonal variation was found, then additional information should be provided; otherwise, there is no need to provide more than a data table in the Report.

8. Information on particular products and services [RFI 2.g]

Whether the Bureau should share more, less, or the same amount of information on particular products and services

Context is vital when comparing products and services

When making such comparisons, the Bureau should provide background information to put that comparison into context. The absence of such contextual information risks misinterpretation. In particular, the following factors should be acknowledged whenever there is a comparison amongst products:

- *Numbers of customers or accounts.* For example, a statement that “debt collection generates more complaints than payday loans” should not be made without mention of the relative number of accounts or consumers participating in each. Comparing volumes

of different products, such as mortgages, debt collection, and credit reporting, risks misleading readers.

- *Types of customer relationships.* There should be an acknowledgment that while many financial products and services are voluntary (including checking accounts, credit cards, loans and mortgages), others are involuntary (such as debt collection) or quasi-voluntary (such as credit reporting). Complaint volumes are likely to be higher in involuntary or quasi-voluntary relationships because the consumer does not have the option of walking away from a relationship they find disagreeable. As discussed above (see comment II.A.4), it is most important that, in the case of credit reporting and debt collection, complaint data be associated with the underlying product type to the extent possible.
- *Number of accounts per customer.* When comparing products, the length of the customer relationship may be a factor. For instance, mortgages typically last many years, most consumers hold only one at a time, and only a few in their lifetime. At the opposite extreme, individuals may take out multiple loans over the course of a year and hold more than one concurrently. These differences may cause different patterns in the type and volume of complaints.

9. Data on seasonal fluctuations [RFI 3.a]

Should the Bureau continue to analyze data for seasonal fluctuations? If so, how?

See comments II.A.2 and II.A.7.

10. Contextual data on market size and company share [RFI 3.b]

Should the Bureau provide more, less, or the same amount of context for complaint information, particularly with regard to product and service market size and company share, including what data set(s) or data source(s) the Bureau should use

Suggested data sets

Data on market size could be pulled from government sources or peer-reviewed studies. Trade groups may also be an acceptable source. Since precision is relatively unimportant, market size could be expressed as a range or an order of magnitude. See also comment II.A.8.

11. Publication schedule [RFI 4.a]

Whether the Bureau should provide the public with a publication schedule

It would be useful to provide at least a frequency level for publication. The schedule may be helpful to some and we are not opposed to it.

12. Notifying companies prior to publication [RFI 4.b]

Whether the Bureau should notify the most-complained-about companies of their inclusion in a Bureau report prior to publication and invite company comment

We consider it unlikely that company comments will be informative, but are not opposed to providing them the opportunity to comment.

13. Building analytical tools [RFI 4.c]

Whether the Bureau should devote resources to building tools to enable users to analyze complaint information

The data is already easy to extract. There are plenty of tools available and, in our opinion, most stakeholders who have the skills to conduct in-depth analysis of the data likely already have access to tools sufficient to the task.

14. Level of access [RFI 4.d]

Whether the Bureau should expand, limit, or maintain the same level of access to complaint information available to external stakeholders such as financial institutions and the public

RMA supports continued public access to the Bureau's Database. RMA has found the Database to be a useful tool to demonstrate that RMA-certified businesses have significantly lower complaint rates than non-RMA-certified businesses. RMA also reviews the complaints against businesses as part of the RMCP initial application and renewal process as well as part of the recurring, independent third-party audits required by the RMCP. We note that the validity of the Database is dependent on good underlying data, which is the subject of the Bureau's Request for Information Regarding the Bureau's Consumer Complaint and Inquiry Handling Processes, to which RMA will provide a separate response.

If the Bureau decides to limit access to the Bureau's Database, RMA would request that the Bureau consider providing special access to entities that can demonstrate a need for such access.

B. Comments on Other Topics

In this Section, we provide observations and recommendations on a number of responsive topics in addition to the suggested topics provided in the RFI.

1. Failure to Accurately Capture Customer Concerns

Observation: The Complaint Portal fails to capture customer concerns accurately.

The extent of inaccurate characterization of customer concerns is so great as to make the data unfit for use in reports. The failure of the Complaint Portal process to capture accurately the concerns raised by consumers seriously undermines statements presented in the Bureau's complaint reporting, due to the "garbage in, garbage out" principle. There is an urgent need to correct or mitigate this failure, in order that it be fit for its intended purpose of "provid[ing] timely and understandable information and to improv[ing] the functioning of the market, in line with the Bureau's objectives."

Recommendation: Ensure accurate capture of customer concerns.

The classification scheme for Issues and Sub-Issues must be updated to reflect the most common issues actually being presented and to minimize errors in classification. The Bureau should also evaluate the extent of misclassification by consumers and consider other ways of classifying complaints such as text analysis, statistical sampling, or reclassification by responding company. RMA will provide additional comments on this issue in its response to the Bureau's *Request for Information Regarding the Bureau's Consumer Complaint and Consumer Inquiry Handling Processes* (Docket No. CFPB-2018-0014).

Recommendation: Change the methodology for analysis and summary of unstructured data.

The Bureau should ensure that the most common types of concern raised by consumers are represented, even if they do not constitute allegations of misconduct by the Company concerned.

2. Database Exclusions

Observation: There are significant unexplained Database exclusions.

Significant numbers of complaints included in the Bureau's gross complaint numbers are not included in the Database. The Bureau has provided only general information about the publication criteria applied and we are not aware of any published accounting for the discrepancy between what is published and what is quoted as a gross complaint number. It is not always clear from Bureau statements whether they apply to the entire universe of complaints, only those published in the Database, or some other scope.

Recommendation: Provide an accounting of the exclusions.

The Bureau should be clear on the reasons for such exclusions, the rationale for their exclusion, and the numbers associated with each exclusion. The Bureau should also make additional efforts to ensure their readers understand which data set is being discussed when observations about complaint patterns, trends, and content are presented.

Recommendation: Complaints against fraudulent Companies should be excluded.

It appears that some portion of the exclusions is due to the fact that complaints have not been successfully matched to companies with portal accounts. We believe many of these complaints are against criminal activities by fake companies looking to defraud the consumer population. The Bureau must do a better job of identifying these fraudulent entities and pursue appropriate legal action against them. In cases where the Bureau cannot confirm the existence of a business, the assumption should be made that it is not a legitimate business, until proven otherwise, and complaints against these entities should be excluded from the Database and any statistical analysis.

3. Treating All Issues as Complaints Is Misleading

Observation: Not every inquiry communicated via the Portal is a complaint.

Debt collectors know that, in addition to allegations of poor service, misconduct, or legal violations, consumers are using the Portal to notify us of a range of other issues, including hardship appeals, requests for debt validation, notifications of fraud and identity theft at origination, and tradeline disputes. In fact, these "non-complaints" make up a substantial

majority of our Portal volume, yet they are referred to as “complaints” in the report, which we consider fundamentally misleading. RMA would request that issues of this nature be excluded from the Database as they unfairly impact the reputation of the industry.

Observation: Commentaries disregard non-complaint inquiries.

Further compounding the last issue, the accompanying commentary does not acknowledge the non-complaint items. The high proportion of non-complaints should be obvious to any seasoned and knowledgeable Bureau staff involved in the analysis of unstructured data (consumer narratives); yet, for some reason, the verbal summaries of the common reasons for complaints fail to mention it. See, for example, the Consumer Response Annual Report for 2016, pp. 15-18. The impression that the most common types of complaints have been included in the summary is false and misleading and seriously overstates the degree to which consumers are using the Portal to make allegations of misconduct, poor service, or other compliance issues in our industry.

Recommendation: Exclude non-complaints from the report.

The simplest way to remedy this false and misleading impression would be to exclude these non-complaints from the report altogether. In 2017, there were 47,972 consumer submissions on the CFPB portal. On December 31, 2017, the US Census Bureau estimated the U.S. Population was 326,965,105. Therefore, this means there was 1 submittal for every 6,816 people (or .014 percent of the U.S. population).

Since there is no way to determine which CFPB portal submissions were actual complaints versus inquiries or requests for additional information, one can look to whether the consumer disputed the response received from the Company as a result of the consumer’s submission. To put it another way, the lack of a continued dispute can indicate that the consumer’s submission was more likely an inquiry or request for additional information and less likely an actual complaint about the Company’s business practices. In 2017, only 2,129 individuals out of the 47,972 (4 percent) indicated that they continued to dispute the issue. In other words, in 2017, approximately 95 percent of consumer submissions did not result in a continued dispute once the consumer received the Company’s response. Here, for every 153,577 people in the U.S. there was 1 submittal that continued beyond the Company’s initial response (or .0007 percent of the U.S. population).

Recommendation: Modify terminology.

We note that the FTC in its *Consumer Sentinel Network Data Book 2017* (March 2018, publicly available at https://www.ftc.gov/system/files/documents/reports/consumer-sentinel-network-data-book-2017/consumer_sentinel_data_book_2017.pdf) has adopted new terminology, “consumer reports” versus “complaints” in recognition of this phenomenon. If non-complaints are to be included in the reports, the report should acknowledge the substantial number of non-complaints included in its data, and should cease making statements that portray all Portal inquiries as “complaints.” Furthermore, gross “complaint” volumes should not be interpreted as indicators of compliance issues, nor used to direct supervisory attention to particular industries or companies.

Recommendation: Capture additional data points in the complaint process.

There may be opportunities to capturing additional information in the Portal process to distinguish complaints from other types of inquiry. For example, when a customer chooses to submit a claim of identity theft through the Complaint Portal, this could be captured and used as an indicator that the customer's concern is not associated with any allegation of misconduct by a debt collector.

4. Database Purpose

Observation: We have concerns about data quality in the Database.

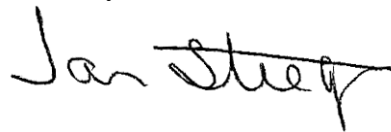
Much of the information presented in complaint reporting is highly questionable due to many of the issues raised throughout this document. Nonetheless, we note that RMA members do find some value in the Database.

- *Partner due diligence and monitoring.* It can be helpful in the context of contractual relationships with vendors, service providers, buyers, and sellers with industry participants. For companies planning to enter into such relationships, review of those companies' timely response data can be a valuable addition to the due diligence process, as it can indicate a failure in a company's compliance management system. It can be used in a similar way for monitoring those in ongoing relationships.
- *Competitor intelligence.* The volumes and changes in complaint volume and issue composition of peers and competitors can also be of some use for industry participants, when considered in conjunction with other industry knowledge.
- *Trend analysis.* When a Company observes a trend or pattern in its complaint volume, it will seek to understand the reason. The Company can consider industry-wide data to assess whether the phenomenon is peculiar to themselves, or driven by external factors.

III. CONCLUSION

RMA appreciates the opportunity to comment on this RFI as part of the Bureau's continuing efforts to ensure strong consumer protections in an environment conducive to the lawful collection of consumer debt. Please do not hesitate to contact me if RMA can provide further assistance. We look forward to working together to create a consumer credit market with fair and transparent collection practices.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Stieger". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jan Stieger,
Executive Director