MORTGAGE BANKERS ASSOCIATION

September 30, 2016

Darrin A. King
ATTN: PRA Office
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20006

RE: Agency Information Collection Activities: Comment Request: CFPB-2016-0041

Dear Mr. King**,**

The Mortgage Bankers Association (MBA)[1] appreciates the opportunity to comment in response to the Consumer Financial Protection Bureau's (CFPB) notice under the Paperwork Reduction Act of 1995 (PRA) concerning a new proposed information collection entitled, "Consumer Response Company Response Survey."

The notice indicates that the CFPB plans to use the survey to replace the existing "dispute" option in its Consumer Complaint Database, following action on a complaint. Instead, the survey would provide the consumer an option to comment on the complaint closing process and rate the company's response to the individual's complaint from one to five with five being the highest rating. The results of this survey and rating would be published in the Database with the consumer's consent and following a scrub by the CFPB for personal information.

MBA agrees with the CFPB that there is value in gaining feedback on consumers' views on responses to their complaints. MBA and its members take consumer complaints and customer satisfaction very seriously. The industry has invested significant effort and financial resources into receiving, understanding, and responding to consumer feedback. Companies today are in constant communication with their customers, through multiple channels, and do considerable follow-up to improve the customer experience.

Nevertheless, we have significant concerns that the proposed survey will not achieve its purpose and indeed might yield information that could be misleading to consumers. Accordingly, MBA respectfully urges the CFPB to consider the following recommendations to enhance the quality, utility, and clarity of the information to be collected:

1) Eliminate the numeric rating component;

2) If the rating component is maintained, exempt from the survey certain complaints, such as foreclosures and debt collection, that by their nature could not yield objective ratings from consumers;

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mba.org.

3) Rather than publish feedback about the resolution of a complaint, clarify that consumers' responses will be provided directly to companies so that additional concerns can be addressed;

4) If consumers' feedback is published, the CFPB should review and scrub comments for details of a resolution that could be potentially misleading to other consumers;

5) Link the initial complaint and the completed survey so that companies can more easily follow up with consumers about any additional questions or concerns;

6) If the numeric rating component is to be tried, design and initiate a pilot program to assess whether the survey yields the type of information sought by the CFPB. If the goals and results do not align the CFPB should either consider eliminating the rating scale and survey or seek comment on a different approach.

Summary of Existing Complaints Dispute Process and Proposed Changes

The current complaints system allows consumers to submit a complaint to the CFPB, which requires the subject company to respond to and address the complaint. Currently, response details are not publicly available although companies can select from a "drop down menu" that the complaint was: 1) closed with explanation; 2) closed with monetary relief; 3) closed with non-monetary relief; 4) closed; or 5) in progress, if the company is still reviewing the complaint.

A dissatisfied consumer can dispute the company's resolution of a complaint, but there is not currently a process that allows a company to routinely learn when a particular resolution has been disputed so the company is able to follow up with dissatisfied consumers.

Under the proposed process, as indicated, the consumer will have the ability to rate the company's response to and handling of his or her complaint on a one to five scale and provide a narrative description in support of the rating. Those feedback narratives for which opt-in consumer consent is obtained, and to which a robust personal information scrubbing standard is applied, will be eligible for publication. Although, there is mention of providing information on disputes back to the company the nature of the feedback loop is not clear.

<u>MBA's Recommendations</u>

The CFPB Should Eliminate the Numeric Rating Component

According to the proposal, the Bureau anticipates publication of consumer feedback to highlight positive company behavior. Positive feedback about the company's handling of the consumer's complaint would be reflected by both high satisfaction scores and by the narrative in support of the score.

We appreciate the CFPB's recognition that, if the database is to be used by consumers as both a means to address issues and as an education tool, it is important to present both positive and negative information.

Unfortunately, because the Consumer Complaints Database by its nature concerns negative interactions with companies, we do not believe the use of the proposed survey is likely to yield any balance of positive and negative ratings. Notably, other common sites that invite consumer feedback (for example, Yelp or Amazon customer reviews) are objective and include reviews of products and experiences that are both positive and negative. Consumers have numerous positive interactions with companies outside of the complaints process. The complaints system excludes these interactions.

We are also concerned that, because the survey is optional, it is unlikely that many consumers will complete a survey about the complaint experience. If they do, considering that the consumer has already filed a complaint, it is likely that that rating would also be negative.

For all of these reasons, MBA believes that the use of the numeric rating in this context is unlikely to provide meaningful data and is likely to present an unfairly negative image of a company. We therefore recommend that the use of ratings for complaint responses be eliminated.

If the Rating Component is Maintained, the CFPB Should Exempt Certain Types of Complaints from the Rating Component

We encourage the CFPB to consider exempting from the survey certain complaints related to events such as foreclosures and debt collection that by their nature could not conceivably yield objective ratings. A foreclosure, for example, is an unfortunate and often painful event. It is inconceivable that a consumer could positively rate a company for its service at such a time. MBA believes if there were such a rating it would reflect the trauma of the foreclosure rather than the company's handling of the complaint. Similarly, it is hard to imagine a balanced rating for debt collection.

Accordingly, we also strongly urge the CFPB to exempt foreclosure debt collection and similar complaints from this proposed ratings process where no meaningful information about a company's customer service can be expected.

The CFPB Should Review Narrative Responses Before Publication to Limit the Publication of Information That Could Be Potentially Misleading to Consumers

MBA agrees with the CFPB's approach that additional narratives should only be published after the CFPB has scrubbed them for confidential and personal information. MBA recommends, however, that the CFPB add an additional layer of scrubbing to minimize the publication of information that could be potentially misleading to other consumers.

Specifically, MBA is concerned that the publication of the new survey's dispute resolution narratives could mislead other consumers as to how their own complaints can or should be resolved. For example, the CFPB's mortgage servicing rules require that companies review a distressed homeowner's loss mitigation application to determine that individual's particular eligibility for a variety of loss mitigation options. A narrative response that does not include every detail could cause similarly situated consumers to believe that they will be eligible for an identical solution when some key — but unmentioned — details make them ineligible. This might cause consumers to hold out for a solution that is not in their best interests, or demand a solution that the company is unable to provide.

Given the possibility of publishing potentially misleading information, we strongly encourage the CFPB to thoroughly review narrative responses to the survey and scrub them for specific details that could be misleading to other consumers.

The CFPB Should Make Clear that Narrative Responses Will Be Provided Directly and Efficiently to Companies

Companies take consumer complaints very seriously and there is real value in providing them with any additional consumer feedback about how a complaint was resolved so that any outstanding issues can be addressed and a company's policies and procedures can be improved. While the proposal indicates that the narrative information will be shared with the company that responded to the complaint, it is not clear exactly how this sharing will occur and if the response will be linked to particular complaints. MBA urges the CFPB to clarify this process as it goes forward.

MBA believes strongly that it is in the best interests of consumers to have their questions and concerns be heard, and to provide companies with the tools to easily track complaints and respond accordingly. For that reason we urge the CFPB to provide this survey feedback directly to the companies utilizing the portal.

The CFPB Should Link the Initial Complaint and the Completed Survey

Using the current Database, a dissatisfied consumer can dispute the company's resolution of a complaint, but it is very challenging for companies to routinely learn when a particular resolution has been disputed so the company is able to follow up with a dissatisfied consumer. The CFPB could increase the value of this information for both consumers and companies by linking the survey to the complaint allowing companies to easily track a complaint from when it is filed to after resolution.

MBA Urges the CFPB to Consider Testing the Effectiveness of This Proposal with a Pilot Program

We understand and appreciate the CFPB's objectives for instituting this process. Nevertheless, we question whether the survey will generate information that is valuable to consumers and fair to companies. Consequently, we urge that if the CFPB is to move forward, it should first consider implementing this proposal as a pilot program to assess whether the information collected aligns with the CFPB's stated goals and expectations. Ratings and surveys collected during the pilot should not be published in the Database. As part of this pilot, we also encourage the CFPB to test what sort of feedback loop to companies would be most beneficial to consumers. MBA would welcome an opportunity to assist in such an effort. In the event the results of the ratings and survey do not align with the CFPB's goals, we urge the Bureau not to include them as part of the Database.

Conclusion

MBA appreciates the opportunity to provide these comments. MBA believes taking the several steps we recommend could improve the Database. Should you have questions or wish to discuss any aspect of these comments, please contact Ken Markison, Vice President and Regulatory Counsel, at (202) 557-2930 or kmarkison@mba.org; or Elizabeth Kemp, Assistant Regulatory Counsel, at (202) 557-2941 or ekemp@mba.org.

Thank you for your consideration of these views.

Sincerely,

Stephen A. O'Connor
Senior Vice President Public Policy & Industry Relations