

January 12, 2015

By electronic delivery to:

Mark.bialek@frb.gov

The Honorable Mark Bialek
Inspector General
Office of the Inspector General
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Mail Stop K-300
Washington, D.C. 20511

Re: Audit of the CFPB's Public Consumer Complaint Database and Security Control Review of the CFPB's DT Complaints Database

Dear Mr. Bialek:

The American Bankers Association (ABA)¹ supports two ongoing projects described in the Office of the Inspector General's (OIG) January 2, 2015, *Work Plan*: an audit of the Bureau of Consumer Financial Protection's Public Consumer Complaint Database and a Security Control Review of the Bureau's DT Complaints Database.²

As noted in the *Work Plan*, in June 2012 the Bureau became the first federal regulator to share publically individual consumer complaint data on an official United States government website. We agree that action merits review of "the effectiveness of the CFPB's controls over the accuracy and completeness of the public complaint database."³ As ABA has expressed on multiple occasions, if the Bureau lacks adequate controls to ensure the accuracy of complaint data, instead of fostering informed and responsible consumer choice, the Bureau becomes an "official" purveyor of unsubstantiated, and potentially false, information.

Thus, we encourage the OIG audit to evaluate the controls in place to ensure the accuracy of individual complaint data. That is, we believe the audit should examine the degree to which complaint data that are published relate to a legal or regulatory violation or a bank practice or

¹ The American Bankers Association is the voice of the nation's \$15 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$11 trillion in deposits and extend more than \$8 trillion in loans.

² *Work Plan*, dated January 2, 2015, available at <http://oig.federalreserve.gov/reports/oig-work-plan.pdf>.

³ *Id.* at 7.

policy failure, as opposed to a more generalized expression of consumer frustration or anger. We note that Bureau investigators and examiners evaluate complaints regularly to test their substantive validity and make conclusions about whether a law or regulation has been violated or a bank practice needs to be addressed. In addition, they consider whether individual complaints are representative of broader issues and distinguish among those that indicate provider violations and those complaints that are unfounded. We strongly urge the OIG to compare these supervisory evaluations with the data posted on the Database.

In addition, the Bureau has long promised to update complaint categories chosen by consumers so that they more accurately identify the topic of the complaint. We urge the OIG to investigate the status of this initiative, as it will impact the utility of the information to consumers.

ABA also urges the OIG to expand the scope of the Database audit. In July 2014, the Bureau proposed further expansion of the Database to include the publishing of consumer complaint narratives.⁴ ABA has strongly opposed the proposed publication of self-selected, unauthenticated complaint narratives on an official government website.⁵ Among other issues, our comment letter expressed banking industry concerns about the Bureau's failure to suggest measures to promote the objectivity, reliability, and relevance of the information for consumer decisionmaking.⁶

OIG review of the effectiveness of "controls over the accuracy and completeness of the public complaint database" should encompass the effectiveness of *proposed* controls – or the lack thereof – to promote the objectivity, reliability, and utility of the consumer narratives the Bureau may publish.⁷ For example, in ABA's comment on the proposal, we suggested minimum controls that should be in place to ensure the accuracy of consumer narratives published on the Database, including reviewing and responding to narratives alleged to include "materially inaccurate information," to have been submitted in bad faith, or to be in violation of the narrative content guidelines.⁸ In addition, we encourage the OIG audit to investigate Bureau plans to supply the necessary context for each narrative and to normalize the data so that they have utility and relevance for consumers.

The OIG audit also should review Bureau testing, if any, to evaluate whether consumers can glean salient information from complaint narratives that have been stripped of personal information and relevant attachments, such as account statements or other personal financial records (due to their confidential nature). The redaction of personal financial information,

⁴ 79 Fed. Reg. 42765 (July 23, 2014).

⁵ See ABA Comment Letter, dated September 22, 2014, available at <http://www.aba.com/Advocacy/commentletters/Documents/clComplaintNarrative2014Sept.pdf>.

⁶ *Id.* at 21-25.

⁷ Review of compliance with Data Quality Act procedures, which require federal agencies to strive to "ensure and maximize the quality, objectivity, utility, and integrity of the information that it disseminates to the public," is an appropriate exercise of OIG authority. See, e.g., Procedural Review of EPA's Greenhouse Gases Endangerment Finding Data Quality Processes, Report No. 11-P-0702, September 11, 2011. ABA believes that publishing unverified, non-random, and de-identified complaint narratives would not conform to the Bureau's own information quality guidelines for utility or objectivity.

⁸ *Id.* at 27-29.

which is necessary to protect privacy, is likely to make the public posting either unintelligible or materially incomplete. In comments to the proposal, ABA called on the Bureau to present redacted narratives to an appropriate sample of consumers to gauge their level of understanding of the facts of the complaint and the company response.⁹ We believe that this testing would be critical, baseline information about the effectiveness of heavily redacted complaint narratives to accurately inform consumer financial decisions.

Moreover, we urge the OIG to expand the scope of the security control review of the Bureau's DT complaints database (which supports the public Database) to encompass the risks presented by the proposal to publish complaint narratives. The *Work Plan* states, "Our specific audit objective is to evaluate the adequacy of certain control techniques designed to protect data in the system from unauthorized access, modification, destruction, or disclosure."¹⁰ ABA believes that the security audit also should encompass test results of the "scrubbing standard and methodology" to remove personal information from complaint narratives and company responses as well as the consumer opt-in process described in the Bureau's proposal. The results of both research projects, which were underway when the Bureau requested comment on its proposal to publish complaint narratives, will impact significantly the adequacy of the Database's privacy and information security controls. It would be very dangerous and potentially painful the persons involved to discover only afterwards that the procedures were inadequate.

Finally, we urge the OIG to investigate the sufficiency of consumer response staffing levels, and the adequacy of their training, to ensure the accuracy and security of a Database that may include consumer narratives. We understand that the Bureau engaged a consultant to design and test the proposed scrubbing standard and methodology to be used to de-identify complaint narratives and company responses. It is unclear whether the consultant will be engaged to perform scrubs, assuming the Bureau moves forward with its proposal, but clearly, additional staff will need to be in place and trained to conduct this work. In addition, we assume the Bureau will have to increase staff significantly in order to have the capacity to assume greater responsibility for the accuracy of consumer narratives published on the Database.

In addition, we assume the Bureau will have to increase staff significantly in order to have the capacity to assume greater responsibility for the accuracy of redacted consumer narratives published on the Database--presenting the double challenge of integrating staff into the Bureau culture while simultaneously assuring their competency to execute information security and complaint processing protocols. Should the Bureau consider contracting out the redaction process or other complaint handling, the OIG would need to audit the Bureau's third-party risk management controls and capabilities, as well as the independent contractors procedures and controls, to guarantee that the handling of the considerable volume of personally sensitive financial information by a third-party will meet data quality and security standards.

⁹ ABA Comment Letter, *supra* at 22.

¹⁰ *Work Plan*, *supra* at 8.

ABA appreciates that these suggestions add considerably to each audit and may delay their completion beyond the first quarter of 2015. However, we believe that the suggested expansion of scope is appropriate – indeed, *essential* – considering the outstanding proposal to publish complaint narratives. The importance of identifying and correcting weaknesses in controls designed to ensure the accuracy and security of complaint data increases exponentially with the prospect of such a material program change.

If your staff has questions about ABA’s recommendations or would like to discuss any of these points further, please contact Virginia O’Neill at 202-663-5073 or voneill@aba.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne A. Abernathy". The signature is fluid and cursive, with a large initial "W" and "A".

Wayne A. Abernathy
Executive Vice President
Financial Institutions Policy
and Regulatory Affairs
American Bankers Association