



May 9, 2011

Andrew Trueblood  
Consumer Financial Protection Bureau  
Implementation Team  
1801 L Street, N.W.  
Washington, D.C. 20036

**RE:** Departmental Offices Proposed Collections; Comments Request  
76 Fed.Reg.10318 (March 9, 2011)

Dear Mr. Trueblood:

The Mortgage Bankers Association (MBA)<sup>1</sup> appreciates the opportunity to comment on the subject issuance by the Department of Treasury on its behalf and on behalf of the Consumer Financial Protection Bureau (Bureau). The Bureau implementation team is soliciting comments regarding forms for questions, complaints, and other information about consumer financial products and services under the Paperwork Reduction Act of 1995.<sup>2</sup>

MBA supports the centralized collection, monitoring and response to complaints concerning consumer financial products and services under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). Accurate, complete, and relevant consumer complaints deserve review and response in a timely manner and a centralized approach serves the best interest of both consumers and the industry. Nevertheless, MBA seeks to assure that in establishing such a system a variety of important concerns are considered and addressed.

MBA has already voiced some of these concerns. In its joint letter with the American Financial Services Association (AFSA) to the Bureau Implementation Team, dated February 9, 2011 (attached), MBA emphasized that the intake and processing functions are enormously important to consumers. The letter pointed out that the complaint requirements

---

<sup>1</sup> 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, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: [www.mortgagebankers.org](http://www.mortgagebankers.org).

<sup>2</sup> Public Law 104-3 (44 U.S.C.3506(c)(2)(A))..

will have significant impacts on the industry and the nation's economy by adding new costs, risks and compliance burdens.

This letter further describes MBA's concerns as follows.

**The Bureau should consult with stakeholders and utilize notice and comment rulemaking before implementing a complaint system.** Because the industry has extensive experience and expertise in addressing and resolving complaints, MBA believes the Bureau should consult with the industry and other stakeholders prior to proposing any complaint system. Such consultation will ensure that intake, transmittal, and resolution requirements are constructed in the most efficient, secure and effective manner to best protect consumer privacy and business information. Most importantly, we believe that following the design phase, the complaint process should be established only through notice and comment rulemaking.<sup>3</sup> The new system will have a major impact on the public and the affected industries.

**The Bureau should avoid causing unnecessary costs and regulatory burden by modeling its system on, and coordinating with, existing systems.** Any new complaint system will result in additional costs for lenders including the costs of necessary employees, systems and overhead to respond to complaints. These costs will be ultimately borne by consumers. Costs therefore should be carefully considered as any system is developed.

To minimize costs and burden, the Bureau should, to the greatest extent feasible, model its database management and intake processes on existing consumer complaint systems, such as the Office of the Comptroller of the Currency's CAGNet system, Federal Reserve and, for state regulated entities, state systems. It should also design its system so that requests of regulated entities are coordinated with requests from other regulators and, where appropriate, the CFPB should work with the other regulators to this end.

Consistency with existing systems will better enable financial institutions to use established internal processes and procedures for responding to consumer issues to minimize costs. At the same time, coordinating systems' requests also will help avoid unnecessary costs resulting from researching and responding to duplicate requests.

**The database should be well designed and seamless for the use of lenders, clients, and the Bureau.** The Bureau should develop a uniform structure, which has clear processes for information that are easy to access. The intake, screening, and verification process for complaints deserve particular attention, as do decisions about how complaints will be screened, who will have access to files and when they will obtain access. To ensure

---

<sup>3</sup> Executive Order 13563 of January 18, 2011, 76 Fed.Reg. 3821 (January 21, 2011)

the efficacious handling of meritorious consumer complaints, MBA recommends that the Bureau require the appropriate level of detail and information from individual consumers at intake that other systems employ; CAGNET is an example.

**Any system developed by the Bureau should protect against reputational risk.**

Complaint information by nature raises the possibility of undue reputational risk where complaints are unfounded and disseminated. Reputational damage is detrimental to financial institutions and if not properly addressed serves to heighten confusion and increase costs to consumers.

MBA members, like all businesses, receive some level of complaints in the course of day-to-day operations. Many complaints, however, are ultimately found to be frivolous or unfounded. In the Accuracy and Integrity Rule, under the Fair and Accurate Credit Transactions Act (FACTA), the Federal financial agencies reported that an estimated 25 to 94 percent of all disputes were frivolous or irrelevant<sup>4</sup>. Furthermore, many of these disputes are not complaints at all; rather they are simply requests for information. Accordingly, these concerns should be carefully addressed when developing the complaint process.

To avoid reputational risk, companies should be provided ample opportunity to address factual claims and correct any errors. Where financial institutions provide the Bureau with confidential and/or nonpublic business or personal information, in response to complaints, such information should not be disclosed to the general public or third parties. As a general matter, the Bureau should establish safeguards so all information is screened carefully before it is released.

**Privacy requirements also must be considered.** Section 1022 of Dodd-Frank requires the Bureau to prescribe rules for the confidential treatment of information obtained from persons in connection with the exercise of its authority under Federal consumer finance law. MBA believes these requirements should be addressed as part of any consumer complaint rules.

**Any system should be implemented with sufficient time and guidance.** Considering that any complaint system will require systems and other adjustments, lenders of all sizes should be afforded sufficient time and guidance before the Bureau's system is implemented and responses from lenders required. To do otherwise, will unduly burden lenders large and small.

**Conclusion :** While MBA supports the establishment of a centralized complaint system, it believes the Bureau should move forward judiciously. The system should be designed with

---

<sup>4</sup> Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies under Section 312 of the Fair and Accurate Credit Transactions Act, Final Rules, (to be codified at 16 C.F.R. pt. 86), p. 81.

the input of industry and other stakeholders considering costs, existing systems, reputational and privacy risks. Moreover, the Bureau should provide notice and sufficient opportunity for public comment on the system's rules. Finally, the Bureau should not implement any final requirements without providing sufficient implementation time and formal and informal guidance so that lenders can comply.

Again, MBA appreciates the opportunity to comment and your consideration of our views. Any questions about MBA's comments should be directed to Tamara King, Associate Vice President, Loan Production at (202) 557-2758 or [tking@mortgagebankers.org](mailto:tking@mortgagebankers.org) or Ken Markison, Regulatory Counsel at (202) 557-2930 or [kmarkison@mortgagebankers.org](mailto:kmarkison@mortgagebankers.org)

Sincerely,

A handwritten signature in black ink, appearing to read "D.H. Stevens". The signature is fluid and cursive, with the first name "David" and last name "Stevens" clearly distinguishable.

David H. Stevens  
President and Chief Executive Officer  
Mortgage Bankers Association