

February 2, 2015

Nellisha Ramdass  
Acting Chief Information Officer, Bureau of Consumer Financial Protection  
1700 G Street, NW  
Washington, D.C. 20552

**RE: "CFPB'S Consumer Complaint Intake System Company Portal Boarding Form  
Information Collection System"**  
**ID: CFPB-2014-0032-0001**

Dear Ms. Ramdass,

Cash America International, Inc. ("Cash America") appreciates the opportunity to submit comments on the Consumer Financial Protection Bureau's ("the Bureau") notice proposing a new information collection titled, "CFPB'S Consumer Complaint Intake System Company Portal Boarding Form Information Collection System" ("the Boarding Form"). Cash America's primary suggestions regarding adding the Boarding Form to the Bureau's Consumer Complaint Database ("the Database") are: 1) the failure of the Boarding Form to request information related to well-known ongoing frauds occurring in the marketplace, and 2) the lack of options to cover outlying scenarios.

1. **The Bureau fails to request information related to well-known ongoing frauds which prevents it from appropriately investigating and responding to complaints as required by the Dodd-Frank Act.**

The Bureau recognizes its responsibility under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") to facilitate the centralized collection of, monitoring of, and response to complaints concerning consumer financial products and services.<sup>1</sup> The Bureau does not currently collect, investigate and respond to consumer complaints regarding ongoing frauds perpetrated against innocent consumers and innocent companies as effectively as it could. This failure is based on three inadequacies of the Database : 1) the information collected prior to assigning a complaint to a company does not include details about the company's experience with well-known ongoing frauds, 2) the Bureau does not take the subject matter of a complaint into consideration when assigning a complaint to a company, and 3) the Bureau's instruction regarding responding to fraud complaints does not allow a company to alert the CFPB to the fraud if the company has ever had any sort of business relationship with the complainant which removes the information about the fraud from the Bureau's radar.

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<sup>1</sup> Bureau of Consumer Financial Protection, Information Collection Request – Supporting Statement for CFPB's Consumer Complaint Intake System Company Portal Boarding Form Information Collection System, CFPB-2014-0032-0001, November 19, 2014.

## Failure to Collect Information Regarding the Well-Known Ongoing Fraud

The Bureau fails to collect, and therefore consider, information related to well-known ongoing frauds in the financial services industry<sup>2</sup> when assigning a complaint to a company. In Cash America's experience, oftentimes the complainant states a person called claiming to be from Cash America when the person is not related to Cash America in any way. These unknown perpetrators are stealing Cash America's business identity. To the best of Cash America's knowledge and belief, the person or entity that is the subject of these consumer complaints is intentionally and unlawfully posing as Cash America, fabricating its affiliation with Cash America, and/or unauthorized persons are holding themselves out as employees of Cash America. This unlawful assumption of corporate identity is an ongoing and continuing fraud. Cash America is not associated in any way with the people referenced in these complaints who are posing as consumer lenders. These people are fraudulently using Cash America's trade name in an attempt to extort money from consumers. Cash America has no knowledge of, or control over, these individuals.

A company's experience related to the ongoing frauds should be included in any assessment the Bureau does when confirming relationships between the consumer and the company and subsequently assigning a complaint. Cash America suggests adding a section to the Boarding Form requesting information regarding the company's experience with business identity theft. Specifically, the form could ask if the company has ever been the victim of business identity theft and ask the company to provide details related to the types of frauds, the hallmarks of the frauds, the company's business practices that prove the company is not involved in the frauds and any actions the company has taken to combat the frauds. Then, the Bureau could incorporate this information into the formula it utilizes to confirm the relationship between the complainant and the company and assign the complaint. Also, proper training regarding how to fill out the

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<sup>2</sup> These types of fraud Cash America is a victim of are well-documented. The FTC has pursued action against approximately six different groups related to phantom debt collection and fraudulent-collector scams (Federal Trade Commission, Press Release: At the FTC's Request, Court Halts Collection of Allegedly Fake Payday Debts, <http://www.ftc.gov/news-events/press-releases/2014/07/ftcs-request-court-halts-collection-allegedly-fake-payday-debts> (last visited November 6, 2014)). In addition, the following are notices to consumers from numerous government agencies and trade organizations:

CFPB: <http://www.consumerfinance.gov/blog/consumer-scams/>

CFPB: <http://www.consumerfinance.gov/askcfpb/1699/how-can-i-verify-whether-or-not-debt-collector-legitimate.html>

FBI: <http://www.fbi.gov/scams-safety/fraud>

FBI: [http://www.fbi.gov/news/pressrel/press-releases/paydayloanscam\\_120710](http://www.fbi.gov/news/pressrel/press-releases/paydayloanscam_120710)

FTC: <http://www.consumer.ftc.gov/articles/0258-fake-debt-collectors>

FTC: <http://www.consumer.ftc.gov/articles/0078-advance-fee-loans>

Washington State DFI: <http://dfi.wa.gov/consumers/alerts/cashnet-payday.htm>

West Virginia AG: <http://www.ago.wv.gov/pressroom/2014/Pages/Attorney-General-Patrick-Morrissey-Warns-Consumers-About-Fraudulent-Credit-Card-Debt-Calls.aspx>

Michigan AG: [http://www.michigan.gov/ag/0,4534,7-164-17337\\_20942-238041--,00.html](http://www.michigan.gov/ag/0,4534,7-164-17337_20942-238041--,00.html)

BBB: <http://www.bbb.org/us/article/CONSUMER-ALERT--Another-Advanced-Fee-Loan-Scam-with-%20western-Michigan-address-27849>

CFAA: <http://cfsaa.com/our-resources/customer-resources/consumer-alerts.aspx>

Military.com: <http://www.military.com/money/personal-finance/credit-debt-management/7-ways-to-stop-debt-collection-scammers.html>

ACA International: <http://www.acainternational.org/news-pennsylvania-attorney-general-warns-consumers-of-fake-debt-collection-scam-32689.aspx>

Boarding Form must be provided by the Bureau and the proposal does not mention a training plan.

### **Matching the Company and the Subject of the Complaint**

The Bureau also states “Consumer Response further ‘authenticates’ the relationship between the consumer and **a company that is the subject of the complaint** by collecting information from the company. This helps ensure the match.”<sup>3</sup> Authenticating a relationship between the consumer and the company does not ensure a match between the *behavior* complained about and the company itself. And so, authenticating a relationship does not necessarily mean the company is “the subject of the complaint.”

In many instances, Cash America has received complaints through the Database where the details of the complaint clearly indicate the complaint was a victim of one of the ongoing frauds. The actions taken by the perpetrators differ slightly on a case by case basis, but the main *modus operandi* is the same and is clearly recognizable. For example, when perpetrating the advance pay fraud, the person calling says they are from Cash America, tells the person their loan application has been approved and if they will load a certain amount of money onto a prepaid card they will receive a much larger amount of money in their bank account. Cash America’s established and documented business practices prove it would never call a consumer and state any of these things. Thus, complaints with similar facts are clearly one of the ongoing frauds. In some complaints Cash America has received through the Database, the complainant actually states that they realize they were the victim of a fraud and they know that it was not really Cash America calling them. Yet, because the person perpetrating the fraud said they were related to Cash America, the Bureau considers this an “authenticated relationship” and assigns the complaint to Cash America.

Cash America suggests adding a section to the Boarding Form allowing companies the opportunity to explain why and how their business practices prove that these types of complaints are part of the fraud and not actions taken by the company. For example, Cash America would like the Bureau to consider when assigning complaints to it that it does not call consumers to follow up on a loan application and does not ever require a consumer to load money onto a prepaid card in order to receive a loan. If a complainant states that these actions were taken, Cash America can absolutely attest that these actions are not Cash America’s. This type of information should be taken into account by the Bureau when “ensuring the match.” The Bureau must gather more information than it currently is to properly authenticate not only the relationship between the consumer and the company, it must authenticate the relationship between the company and the *facts* of the complaint to ensure the company is the “subject of the complaint.”

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<sup>3</sup> Bureau of Consumer Financial Protection, Information Collection Request – Supporting Statement for CFPB’s Consumer Complaint Intake System Company Portal Boarding Form Information Collection System, CFPB-2014-0032-0001, November 19, 2014 (emphasis added).

## **The Bureau's Instruction Regarding Responding to Fraud Complaints**

The vast majority (approximately 80%) of complaints Cash America receives are fraud complaints. But, because sometimes the complainants are either past or present customers of Cash America's, the Bureau never analyzes any information about the frauds. According to instruction and guidance received directly from the Bureau, Cash America must utilize the "Closed with Explanation" response if any current or historical record of any type of relationship with the consumer exists even if the actions complained of are clearly part of the ongoing fraud and Cash America has been the victim of business identity theft. Also according to the Bureau, when the "Closed with Explanation" response is utilized the Bureau never reviews or analyzes those complaints. According to the Bureau these complaints generate an automated response to the complainant, are posted on the public Database and the Bureau does not assess the response at all. Therefore, there is a bevy of information relating to a very serious ongoing fraud on consumers that the Bureau is completely ignoring.

To be more specific, Cash America has received ninety total complaints through the Database. Out of those ninety complaints, seventy-one of them were fraud complaints. Forty-two of those complaints were clearly instances of the ongoing fraud, but because Cash America had a history with the complainant those complaints were "Closed with Explanation" as required by the Bureau. Therefore, the Bureau is not utilizing the information provided by the complainant. Consequently, nearly half the complaints received by Cash America provide important information relating to an ongoing fraud plaguing consumers and the Bureau does not further investigate or report on these complaints.

## **The Bureau's Duty to Investigate and Report on Fraud Complaints**

Cash America appreciates that the Database is new and this volume of complaints about fraudulent activity might not have been originally anticipated. However, the Bureau is most definitely aware of the issue at this point and, under Dodd-Frank, it has a duty to make changes to the Database to allow it to appropriately investigate and report on these fraud complaints. If the Bureau included a section on the Boarding Form relating to the company's experience with ongoing frauds, the Bureau could then utilize that information to better assess whether the complaint should be assigned to a company at all or deemed a fraud at the outset. Additionally, the Bureau could utilize the information to allow a company, after proper investigation, to return a complaint using the response "Alerted CFPB" regardless of whether the consumer and the company have ever had a business relationship. A fraud is a fraud. And whether or not the victim has ever had a business relationship with the company whose identity has been stolen should not matter. Furthermore, and most importantly, if the Bureau continues to refuse to allow companies to use the Alerted CFPB response when the complaint is clearly one about the ongoing frauds, the Bureau is failing to fully analyze the information provided by complainants regarding the frauds. That failure to analyze definitely leaves the Bureau incapable of fully investigating and reporting on the ongoing frauds as required by the Dodd-Frank Act.

## Cash America's Actions Related to the Ongoing Frauds

Cash America clearly has no control over the perpetrators and has attempted to mitigate the damage caused to consumers through alerting the appropriate Federal agencies, educating consumers on how to recognize and handle the ongoing fraud and carefully policing its trademarks.<sup>4</sup> It is Cash America's sincere hope that the Database accumulates enough information to allow the Bureau to work with other Federal agencies to take action against those perpetrating the ongoing frauds. Cash America has always been, and remains, willing to assist the Bureau and other Federal agencies in any way possible in relation to the ongoing frauds.


### 2. The Boarding Form currently lacks enough options to cover specific situations that might arise in a company's profile.

Cash America noticed a few areas of the Boarding Form where additional options are necessary to cover specific outlying situations. For example, in Section D, question 20, the Boarding Form should also include a column for the type of license so that businesses that hold different licenses for different product offerings in a certain state can list them accordingly. Also, in Section E, Question 21, a box for "Other" should be included with an opportunity to write in the primary product. If the Boarding Form is left in its current state, Cash America would not have an appropriate box to check in this section. Finally, Section F should allow for multiple logos for companies operating with more than one.

## Conclusion

Cash America appreciates the opportunity to comment on the Boarding Form. Cash America believes the Boarding Form presents an opportunity to further improve on the Database's function in furtherance of the Bureau's duties required by the Dodd-Frank Act.

Respectfully,

  
Andrea S. Cottrell  
Corporate Counsel  
Cash America International, Inc.

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<sup>4</sup> In the past, Cash America has taken action to attempt to limit the ongoing and continuing fraud. Cash America has met with the Federal Bureau of Investigation ("FBI") and with the Federal Trade Commission ("FTC") to discuss the fraudulent-collector scam. Cash America has also worked with state Attorneys General, including Texas, Minnesota, Wisconsin and Illinois, who have investigated this matter. In addition, Cash America is aware that the US Attorney for the Eastern District of California has pursued criminal action against at least one party associated with the fraudulent-collector scam. Cash America has worked with the authorities and offered its assistance in pursuing those cases as requested. Furthermore, Cash America's main webpage, [www.cashamerica.com](http://www.cashamerica.com) includes a dedicated consumer notice section regarding how to recognize and report on this type of fraud. A Google search of "Cash America scam" brings back this dedicated consumer notices page within the first two results. In addition, Cash America takes trademark infringement seriously and actively monitors and protects its trademarks. Outside law firms assist Cash America in this endeavor and Cash America takes affirmative actions to shut down abuses of its trademarks, particularly online. For example, in 2013 Cash America realized an unauthorized third party was operating a website with the URL [www.cashamericaloans.com](http://www.cashamericaloans.com). Cash America believed this website was one perpetuating the ongoing frauds. Cash America initiated a Uniform Domain-Name Dispute-Resolution Policy arbitration proceeding, shut the website down and took over possession of the domain.