



**Comments to the Bureau of Consumer Financial Protection
Docket No. CFPB-2014-0016
Disclosure of Consumer Complaint Narrative**

September 22, 2014

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552
September 10, 2014

**Re: Request for Information Regarding Narrative Comments,
Docket No. CFPB-2014-0016**

Dear Ms. Jackson:

Appleseed and nine Appleseed Centers¹ respectfully submit these comments advocating for the consumer option to include narratives in complaints filed with the Consumer Financial Protection Bureau (“Bureau”).

I. Introduction

Appleseed appreciates the opportunity to respond to the request of the Bureau for comments on the Notice of Proposed Policy Statement (the “Proposed Policy”) proposing a supplement to the Bureau’s existing Policy Statement on the Bureau’s Consumer Complaint Database (the “Consumer Complaint Database”), which permits the disclosure of certain consumer complaints in a public-facing database. The Proposed Policy would expand the existing Consumer Complaint Database to include consumer narratives.

¹ Appleseed is a network of 17 public interest justice centers in the United States and Mexico that uncovers and corrects social injustices and barriers to opportunity through legal, legislative, and market-based structural reform. Appleseed Centers joining Appleseed in submitting this letter are Alabama Appleseed Center for Law & Justice, Inc., Chicago Appleseed Fund for Justice, Georgia Appleseed Center for Law and Justice, Kansas Appleseed, Massachusetts Appleseed Center for Law and Justice, Nebraska Appleseed, New York Appleseed, South Carolina Appleseed Legal Justice Center and Texas Appleseed. Appleseed is grateful to our talented pro bono partners for expert legal and policy work and for serving as thought partners in developing these ideas: Lara Bubalo Manor and Kathleen Scott, Senior Counsel, NortonRoseFulbright.

The decision to publicize personal narratives would be left to the consumer and not the Bureau. Narratives by default would remain confidential unless a consumer elected to “opt-in” to sharing their story on the public forum. In order to opt-in, the consumer would be required to provide informed consent and could relinquish said consent at any time. The Bureau would use the safeguards it already applies to complaints submitted to the Consumer Complaint Database, plus additional measures to increase the anonymity of the consumer. We support the expansion of the Consumer Complaint Database to include narratives, provided a consumer’s identity can be properly protected while still balancing the utility that increased transparency will provide to all of the stakeholders.

Providing structures to combat poverty and build assets for low-income individuals has been an important part of Appleseed’s work both at the national level and among Appleseed Centers. In particular, Appleseed has taken a leading role on consumer protections for remittance transactions in the United States, and in efforts to advance inclusion of immigrants in important institutions of the American government and the economy. To that end, we have supported the passage of state² and federal³ laws and regulations providing transparency and remedies in the money transmission industry as well as conducted research and issued reports on the money transmission industry.⁴ Appleseed Centers lead the way in their states and jurisdictions to address a diverse range of economic justice issues, including fair financial services, payday and auto title lending reform, and fair debt collections practices.

The Consumer Complaint Database provides an extensive repository of raw data regarding complaints about financial transactions. But as the database currently stands, there are only statistics, not stories. Introduction of narratives provides context and permits the advocate to spot trends, the consumer to make more informed financial decisions, and the company to improve customer service. As such, we support the Proposed Policy provided the Bureau with the inclusion of zip codes as discussed below.

II. Specific Comments

a. **Appleseed believes that “opt-in” narratives empower consumers and lead to informed decisions while simultaneously allowing stakeholders to identify trends and patch gaps**

We applaud the Bureau for expanding the scope of the Consumer Complaint Database to include remittances or “money transfers,” payday/auto title and debt collections – all arenas in which Appleseed and many Appleseed Centers work. We will present the money transfers complaint database to depict the need for narrative information.

² Tex. Fin. Code Ann. § 278.05.

³ Dodd-Frank § 1073.

⁴ See Appleseed’s Financial Access Program: Publications and Resources, *available at* <http://www.appleseednetwork.org/bPublicationsb/FullArchive/FinancialAccess/tabid/525/Default.aspx>

The amount of remittance transfers sent from the United States to international destinations on an annual basis is estimated at between \$50 billion and \$100 billion.⁵ Not surprisingly errors can occur given the amount of money and frequency with which it changes hands. Currently over 1,300 complaints about money transfers have been submitted.⁶ The majority of these complaints identify the money transfer issue as “fraud or scam.”⁷ Somewhat disconcertingly, “Other service issues” and “Other transaction issues” combine to form almost the same percentage of complaints as “fraud or scam.”⁸ In essence, over a third of the complaints submitted are filed under “other.” “Other” hardly helps consumers make informed decisions or help policy makers identify trends.

This is not to dismiss the importance of statistics. The Bureau’s creation of the Consumer Complaint Database was an excellent first step – the database provides a wide swath of consumer data that heretofore was unavailable to the public in such a centralized location. But the database must evolve in order to better serve the community at large because while statistics are incredibly important, stories stick. Narratives have the ability to humanize numbers and empower consumers who might otherwise feel helpless fighting against financial giants. The Consumer Complaint Database has the potential to serve as a modern town hall providing a previously unavailable platform to the average citizen.

b. Appleseed believes that the Bureau should adopt a modified approach to the Health Insurance Portability and Accountability Act Safe Harbor Method to protect individual’s identities

Not all aggrieved consumers want to share their stories with the world. The opt-in option allows consumers to choose whether or not to publicize their issues, with the default being that narratives remain confidential. Provided that the Bureau clearly indicates how consent may be withdrawn, consumers should be able to “opt-in” at the time of the narrative’s submission. The language used to obtain informed consent should be prominently displayed on the website and similar to that used in remittance disclosures – simple, clear, and concise. While the Bureau is currently only equipped to intake narratives in English, we implore them to continue and refine the database to permit for consumer narratives in multiple languages.

Proper safeguards must ensure fairness and protect consumer identity without sacrificing the utility that narratives provide to the Consumer Complaint Database. Some companies have been reluctant to embrace the addition of narratives. Obvious concerns may be that companies will be susceptible to unfair criticism. Fortunately the Bureau plans to implement the same safeguards that already exist for submissions to the Consumer Complaint Database to the narratives as well as additional protections for companies. Prior to publication, the Bureau will

⁵ April 23, 2013 NYT’s article by Natalie Kitroeff.

⁶ Consumer Complaint Database as of September 1, 2014.

⁷ Nearly 37% according to the Consumer Complaint Database as of September 1, 2014.

⁸ “Other service issues” and “Other transaction issues” are distinct categories. Combined, the subcategories comprise over 35% of the complaints according to the Consumer Complaint Database as of September 1, 2014.

verify that a business relationship exists between the consumer and the company. The Bureau will also allow the company time to reply to the narrative. Narratives will not be publicized until the company has either responded to the complaint or 15 days have passed from the time which the company has received the complaint, whichever is shorter. The dual publication of consumer narratives and company responses bolster the integrity of claims while protecting companies and allowing for a more complete picture of the dispute.

If all identifying information is redacted the narratives lose their utility to help advocates spot trends and patch gaps. The Consumer Complaint Database currently shows the five digit Zip code, and we are supportive of maintaining that level of transparency for all complaints. The company already knows what consumer is complaining about them, so eliminating the zip code won't preclude the company having this information. Zip code analysis is an important consumer analytic and advocacy tool; patterns of problems can vary by demographic concentration, geographical area, part of the country, income in an area, and other factors. We cannot ascertain harm to a consumer from including zip codes. What parties – other than companies that already have this information – would attempt to identify the consumer's identity? Who are we protecting consumers from with a 10,000 safe harbor? We reiterate: including zip code information in complaints is important for consumer protection.

III. An Example

Appleseed is indebted to the consumer below and CFPB Director Richard Cordray for including in his opening remarks at the CFPB payday hearing in Nashville in March 2014 this payday loan complaint that TX Appleseed received. We believe it exemplifies the richness of including consumer narratives in complaints:

Evelyn, an 81-year-old woman from Texas, had to deal with this very situation. Evelyn told us she had never taken out a payday loan in her life until she needed to pay for her dying daughter's cancer medicine. She saw an ad on TV and on a Saturday morning went down to her local payday storefront to take out \$380. She was hoping her daughter would get well and pay back the money herself. But the cancer took away her daughter just six months later. Evelyn, on a fixed income that combined her widow's pension and Social Security checks, tried to pay back the loan bit by bit. But every time she hit her due date at the beginning of the month, she had to renew the loan because she did not have the full amount plus the new fees. As the many months passed, Evelyn's outstanding balance grew to be more than \$700.

IV. Importance of Narrative Complaints to Correct Immigrant Financial Problems and Identify Patterns of Problems to Eliminate Barriers

While new and emerging financial products and technologies in the financial sector create opportunities to expand access to cash and markets to immigrants at lower cost, they may also provide openings for companies to take advantage of vulnerable consumers. Appleseed recognizes the need to create an immigrant financial ecosystem that protects against fraud and predatory practices and offers immigrants consumer protections and consumer recourse. There are opportunities for immigrants to take advantage of as well: Texas Appleseed's support for the Matricula Consular consulate identification pilot in Austin, Texas, contributed to the widespread growth in depository institution use of the Matricula Consular as an acceptable form of identification for opening a bank account, allowing immigrants to avoid security concerns raised by maintaining large amounts of cash at home or on their person.

Appleseed believes that we can learn a good deal from the narratives associated with immigrant complaints (Note: The term "immigrant" can include both newcomers and established citizens.) What can we learn from these complaints? Appleseed provides the array of money management topics below that could be described in greater color and detail in narrative complaints from this population subgroup:⁹

- **Banking (financial) deserts.** Immigrants may include both urban residents and rural farmers and farmworkers residing away from the commercial centers with the greatest density of brick-and-mortar bank or credit union branches.
- **Challenges with innovations.** Innovations in mobile payment services, the development of mobile wallets, and the introduction of personal money management tools and applications have effectively transformed how some individuals manage their money and may have ramifications for underserved communities, including immigrants.
- **Self-employment finances.** Immigrants are more commonly self-employed than native workers. For example, 8 percent of foreign born non-U.S. citizens are self-employed, while only 5.8 percent of natives are.¹⁰
- **Financing needed to start businesses.** Immigrants have a higher rate of starting businesses than native-born Americans. Recent research has found that immigrants: i) are now more than twice as likely as the native-born to start a business (550 new businesses per month for every 100,000 immigrants in 2011, compared to 270 new businesses per month for every 100,000 native-born); and ii) were responsible for 28

⁹ See previous Appleseed publications, including "Expanding Immigrant Access to Mainstream Financial Services" (2006) and "Immigrant Use of Financial Services and Unmet Needs" (2008) for more information regarding traditional barriers to financial access for immigrants. <http://appleseednetwork.org/financial-access-and-services/>

¹⁰ U.S. Census American Community Survey ("ACS").

percent of U.S. businesses founded in 2011, significantly outpacing their 12.9 percent share of the population.¹¹ Are such loans safely available to address these needs and are there barriers to securing these loans?

- **Recourse.** Many recent immigrants do not know how or where to complain if there are problems with transactions. Immigrants may feel disempowered from doing so, so it's particularly important to spell out remedies and be clear that transactions must be conducted honestly whether someone has legal status in the U.S. or not. The rapid (and continuing) growth in complaints collected in the CFPB's Consumer Complaint Database indicates that there had not previously been an appropriate outlet for complaints about inappropriately conducted financial transactions. For example, in the first six months of its existence, the CFPB database collected approximately 20 complaints per month pertaining to international money transfers.¹² As this resource has become more familiar to the immigrant community, the volume of collected complaints has grown. In the most recent six months, for example, the database collected approximately 60 (or almost three times the number of) complaints per month.¹³
- **Language access.** Providers should make services available in the different languages used by customers and have service personnel available to explain how to use the system. Language complexities are greater than are commonly understood (e.g., Somalis are a significant population subgroup in St. Paul, MN).

A basic concern is to ensure to the greatest extent possible that the terms of the services being marketed to non-English speaking customers are the same as those marketed to English-speaking customers. The remittance disclosure provisions added to the Electronic Funds Transfer Act in the Dodd-Frank financial reform legislation specifically require that the disclosures must be made in English and in each of the foreign languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office.¹⁴ This is a worthy model.

- **Two security concerns: personal security and financial security.** Vulnerable populations like immigrants are more often the victims of street crimes and theft than other population subgroups. For example, research has found that i) undocumented workers are "unlikely to report the crimes or pursue criminal justice aid," and ii) the fact that undocumented migrants often do not have bank accounts and "tend to carry large

¹¹ The Partnership For A New American Economy, "Open For Business: How Immigrants Are Driving Small Business Creation In the United States," August 14, 2012.

¹² CFPB's Consumer Complaint Database.

¹³ CFPB's Consumer Complaint Database.

¹⁴ 12 U.S.C. § 919(b).

amounts of cash on their person [...] makes them lucrative targets for robberies and theft.”¹⁵

- **Understandable disclosures.** Are disclosures presented in a manner that helps immigrants shop for the best deal?
- **Advertising disclaimers.** In order to avoid direct targeting of the populations most vulnerable to exploitation (and the ones least likely to afford sophisticated apps), advertising should contain certain disclaimers such as anticipated costs and fees associated with the product or service being offered, and if applicable, whether there is any government guarantee associated with the service. For example, federal banking agencies require that when nondeposit financial products, such as securities, are being offered to consumers by banks, disclosures must be made regarding the fact that the product does not carry a government guarantee of repayment and may lose value.¹⁶ Are immigrants and other underserved parties receiving clear disclaimers?
- **Technological literacy.** Some financial services applications require users to understand how to download applications, navigate websites using a mobile browser, upload photos for remote deposit capture, etc.

V. Conclusion

Thank you again for allowing us the opportunity to present these suggestions for your consideration. If you have any questions concerning these comments or if we may otherwise be of assistance in connection with this matter, please do not hesitate to contact Annette LoVoi, Director of Financial Access and Asset Building, at 512.542.9082, alovoi@appleseednetwork.org

Sincerely,

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Betsy Cavendish, President
Alabama Appleseed Center for Law & Justice, Inc.
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Massachusetts Appleseed Center for Law and Justice
Nebraska Appleseed
New York Appleseed
South Carolina Appleseed Legal Justice Center
Texas

¹⁵ Bucher, J., Manasse, M., & Tarasawa, B., “Undocumented Victims: An Examination of Crimes against Undocumented Male Migrant Workers,” *Southwest Journal of Criminal Justice*, 7(2), 159-179.

¹⁶ See “Interagency Statement on Retail Sales of Nondeposit Investment Products,” February 15, 1994.