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CFPB FINALIZES CONSUMER NARRATIVE POLICY AND EXPLORES POSITIVE CONSUMER EXPERIENCES SHARING

The Consumer Financial Protection Bureau ("CFPB") finalized a policy to publish anonymous consumer complaint narratives in the public-facing Consumer Complaint Database ("Database"). Narratives will be posted only if consumers consent to sharing the narrative portion of their complaints. Although consumers will have the option to share their narratives starting on March 19th, the CFPB will not begin to share consented-to narratives until at least 90 days after the CFPB's new policy is published in the Federal Register. The CFPB's policy indicates that publication of narratives may be further delayed to give the CFPB time to implement its policy.

Posting Complaints and Narratives

The CFPB will list *complaints* on the Database on the earlier of the date that (i) the company initially responds to the complaint or (ii) 15 days after the company receives the complaint. The CFPB will publish *narratives* on the earlier of the date that (i) the company provides a public-facing response or (ii) 60 days after the company receives the complaint. The CFPB may disclose a consumer's 5-digit or 3-digit zip code with the narrative depending on the total population associated with a zip code. The CFPB will not remove consumer narratives from the Database regardless of their age or status, but consumers may withdraw consent to publish their narratives at anytime.

Prior to publishing a narrative, the CFPB will scrub narratives of personal information, including demographic information, financial information and other identifying information. To be published, narratives must also meet certain publication criteria, including (i) the complaint must be submitted through the CFPB's website, (ii) the complaint must not be a duplicate submission and (iii) the consumer must have a confirmed relationship with the company. The CFPB will not take additional steps to verify the accuracy of or limit narratives.

Posting Responses

Through the company's web portal, a company will have the option to provide a public-facing response to a consumer narrative from a finite list of structured responses. Companies may give a structured response to any complaint submitted after March 19th, not

just complaints with published narratives. Companies have 180 days after they receive a complaint to provide an optional public response.

Consumers may give and withdraw consent so Company policies should not be limited to "published" narratives. The CFPB will not indicate to companies the published or unpublished status of a narrative.

RFI

Concurrent with the final consumer narrative policy, the CFPB issued a Request for Information ("RFI") to collect input on sharing consumers' positive experiences with companies. The RFI sets forth two possible avenues for highlighting positive experiences. First, the CFPB could display data, visualizations, comparison tools, etc., on a company's complaint handling practices in such a way that shows positive company behavior. Alternatively, the CFPB could create a process to collect and share consumer compliments about companies through either the "Tell Your Story" function on the CFPB's website or a more direct, separate intake process. The public may submit comments to the CFPB on or before 60 days after the RFI is published to the Federal Register.

Concerns

One of many concerns raised by industry in response to the CFPB's proposed policy was that the publication of unverified consumer narratives on a government website may give consumers the misimpression that the narratives are accurate. In response, the CFPB determined that the risk of consumers drawing erroneous conclusions from the narratives should be addressed by (i) the lenient narrative publication criteria listed above and (ii) a disclaimer on the Database that reads "we don't verify all the facts alleged in these complaints but we take steps to confirm a commercial relationship between the consumer and company."

Another point emphasized in the CFPB's final policy is that companies remain liable for ensuring compliance with all legal requirements. Companies should consider the legal implications, especially under the Gramm-Leach-Bliley Act, of providing a public structured response or taking other actions relating to the consumer narratives published on the Database. □

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