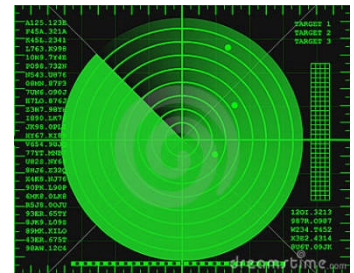


The CFPB's "Company Portal" Program: It's Your Company's Radar!

Michael L. Mallow

Michael A. Thurman

Consumer Protection Defense Department



LOEB & LOEB Adds Value



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The Usual Disclaimers

- This presentation is educational, not legal advice.
- If you need an attorney, retain one who is authorized to practice in the appropriate jurisdiction.

F-MINUS by Tony Carillo



What is the CFPB?

- The new federal regulatory agency
- Charged with enforcing federal consumer financial protection laws
- Powers vested in the agency:
 - Making new regulations
 - Supervising and examining businesses
 - Investigating possible violations of consumer laws and regulations
 - Bringing enforcement actions against alleged violators



What is the CFPB?

- Created by the Dodd-Frank Act of 2010 (“CFPA”)
- Separately-funded directly by the Federal Reserve
 - Estimated budget of **\$450 million in 2013**
 - Independent of the Congressional appropriation process
 - Plus, retains all civil penalties exacted in enforcement actions
- Headed by a single Director appointed by the President
- Hired more than 900 employees to date
 - CFPB plan: 1,350 employees by 2013 year end
 - **More than half of the CFPB’s employees are assigned to supervision and enforcement**



So what is the “Company Portal”?



What is the “Company Portal”?

- Secure web link between a company and the CFPB
- Agency can forward consumer complaints
- Allows company to provide “real-time” responses
- Consumers can track their complaints to resolution
- CFPB can evaluate respective positions, determine if follow up is needed
- Companies can “control their own destiny,” as full participants in an open process



How Does The Company Portal Work?



An official website of the United States Government

(855) 411-2372

- HOME
- INSIDE THE CFPB
- GET ASSISTANCE
- PARTICIPATE
- LAW & REGULATION
- SUBMIT A COMPLAINT**

American Express to compensate customers for illegal practices

American Express will pay \$85 million to approximately 250,000 consumers. American Express will return the money directly into the accounts of the affected consumers. If the consumer no longer holds the American Express card, American Express will mail a check or credit any outstanding balance. [Read more >>](#)



Consumers expect, and deserve, that companies follow the rules

Today, in close partnership with our fellow banking regulators, we are ordering three subsidiaries of the American Express Company to put some \$85 million back into the wallets of consumers. The subsidiary companies will modify various credit card practices found to be illegal, make full refunds to approximately 250,000 customers, and pay \$14.1 million in [...]

OCT 1
[Order: American Express is responsible for compensating customers for illegal practices](#)

SEP 27
[Live from St. Louis, MO!](#)

SEP 26
[Working to help industry understand and comply with the new remittance rule: Countries list and webinar](#)

[Read more in the blog →](#)



How Does The Company Portal Work?

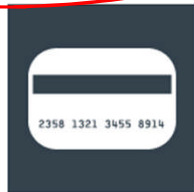
[HOME](#) [INSIDE THE CFPB](#) [GET ASSISTANCE](#) [PARTICIPATE](#) [LAW & REGULATION](#) [SUBMIT A COMPLAINT](#)

[HOME](#) [SUBMIT A COMPLAINT](#)

Submit a complaint



Mortgage



Credit card



**Bank account
or service**



**Vehicle loan
or consumer
loan**



Student loan

CHECK YOUR COMPLAINT STATUS

[LOGIN](#)

[Forgot your password?](#)

FIRST LOGIN?

[Set your password](#)

Share



Consumer Financial
Protection Bureau

[Privacy policy and legal
notices](#)

[Accessibility](#)

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How Does The Company Portal Work?



File a bank account or service complaint

We'll forward your issue to the company, give you a tracking number, and keep you updated on the status of your complaint.

- 1. **What happened?**
- 2. Desired resolution
- 3. My information
- 4. Product information
- 5. Review

Describe what happened so we can understand the issue... *

4000 characters remaining

This is about a(n) *



How Does The Company Portal Work?



File a complaint

- ✓ What happened?
- ✓ Desired resolution
- ✓ My information
- ✓ Product information
- 5. **Review**

We're on it.

Thank you for submitting your complaint.

Your case number is: #121005-000253

Expect an email confirmation shortly.

[You can check the status of your complaint at any time.](#)



What's Coming Next...

All consumer financial services to be added!

- Target date: End of 2012

Submit a complaint



Mortgage



Credit card



Bank account
or service



Vehicle loan
or consumer
loan



Student loan




Debt settlement

What does the CFPB do with complaints?

1. Collects and reports complaints



An official website of the United States Government 

 (855) 411-2372

[HOME](#) [INSIDE THE CFPB](#) [GET ASSISTANCE](#) [PARTICIPATE](#) [LAW & REGULATION](#) [SUBMIT A COMPLAINT](#)

[HOME](#) CONSUMER COMPLAINT DATABASE [BETA]

Consumer Complaint Database [beta]



This contains data from the consumer credit card complaints received by the Consumer Financial Protection Bureau. We do not verify the accuracy of all facts alleged in these complaints, but we do take steps to confirm a commercial relationship between the consumer and the identified company.

Data is refreshed daily, starting from June 1st, 2012.

Download, search, & visualize



[All data](#)



What does the CFPB do with complaints?

THE WALL STREET JOURNAL.

WSJ.com

June 19, 2012, 1:28 PM ET

The CFPB Unveils Its Credit-Card Complaint Database

By Ruth Simon

Want to know how your credit-card company treats its customers?

The Consumer Financial Protection Bureau is trying to make it easier for you to get some answers. This morning, [the agency launched](#) the initial version of its searchable online database of credit-card customer complaints. It's available [here](#).

The database includes the name of the company, the type of complaint, the customer's ZIP Code and whether the case was closed with monetary relief or an explanation from the card issuer. The agency isn't disclosing borrower names or other personal information.

For now, the information provided by the CFPB makes for quick reading. There are 137 credit-card-related complaints, all received by the agency since June 1. New complaints will be added daily once the agency verifies that the company has a business relationship with the person making the complaint.

The information posted represents just a tiny slice of the roughly 17,000 credit-card complaints received by the agency since last July. The bureau says it plans to add older complaints later this year.



What does the CFPB do with complaints?

2. Shares complaints with other regulators

COMING SOON: The Government Portal!

Anticipate mutual sharing of /access to complaints between regulators via the “Government Portal”

Likely Participants:

Federal Trade Commission

State Attorneys General

State Consumer Protection Agencies

Department of Justice

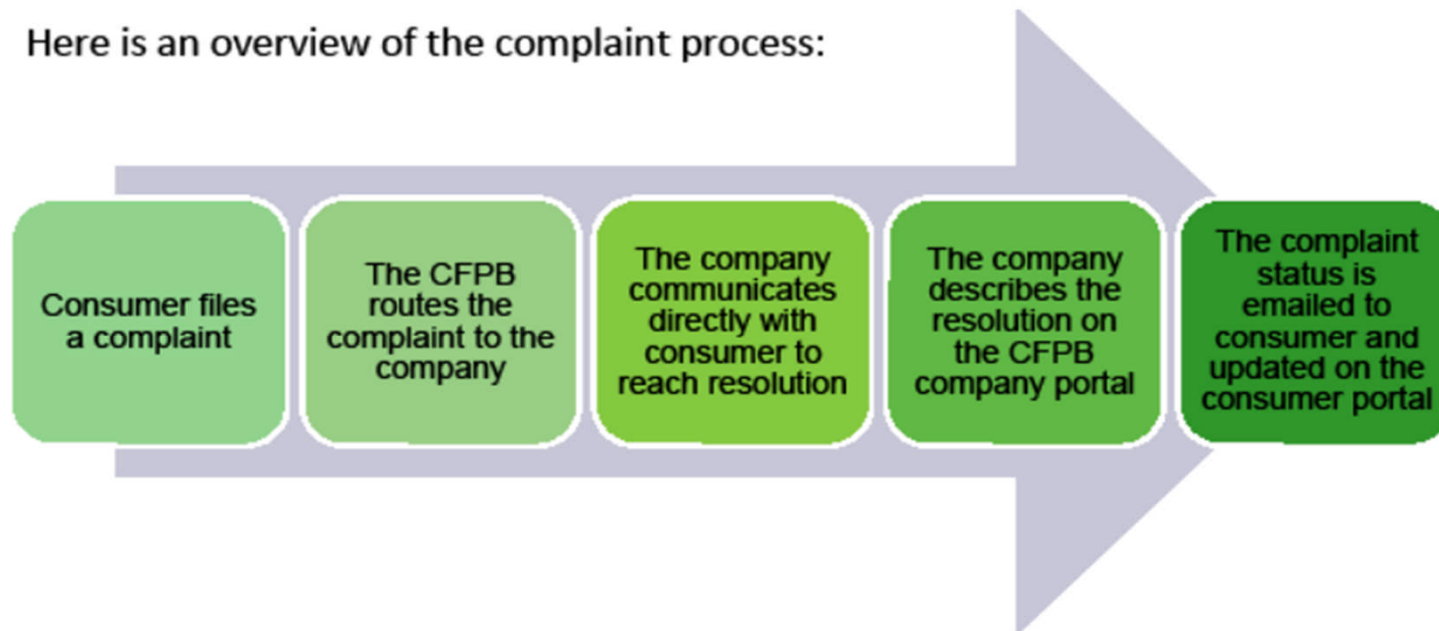
Other agencies?



What does the CFPB do with complaints?

3. Delivers to businesses via the “Company Portal”

Here is an overview of the complaint process:



Company Portal Process

1. CFPB will review complaints within 24 to 48 hours
 - A. Within CFPB jurisdiction? If not, forwards it to another federal or state agency.
 - B. Confirms company's identification
 - C. Confirms that Company is onboard portal program
2. Forward complaint to company via portal
3. Company response due within 15 days
4. CFPB forwards Company response to consumer
5. Consumer may respond to Company's response
6. Final resolution due within 60 days



Company Portal Process

Reviewing Cases cont.



Welcome [username](#) [Logout](#)

Active Cases

Case Number	Name on card	CC acct number	Issue	Status	Sent to bank	Respond by	
XXXXX-XXXXX	[sample only]		APR or interest rate	No response	08/04/2011 11:45	08/14/2011	
XXXXX-XXXXX			Billing disputes	No response	08/04/2011 11:43	08/14/2011	
XXXXX-XXXXX			Billing statement	No response	08/04/2011 10:53	08/14/2011	
XXXXX-XXXXX			Billing statement	No response	08/04/2011 10:53	08/14/2011	
XXXXX-XXXXX				No response	08/04/2011 10:53	08/14/2011	
XXXXX-XXXXX				Sent to company	09/02/2011 14:35	09/12/2011	
XXXXX-XXXXX			Late Fee	No response	08/04/2011 10:53	08/14/2011	
XXXXX-XXXXX							
XXXXX-XXXXX							
XXXXX-XXXXX							

1 ▶

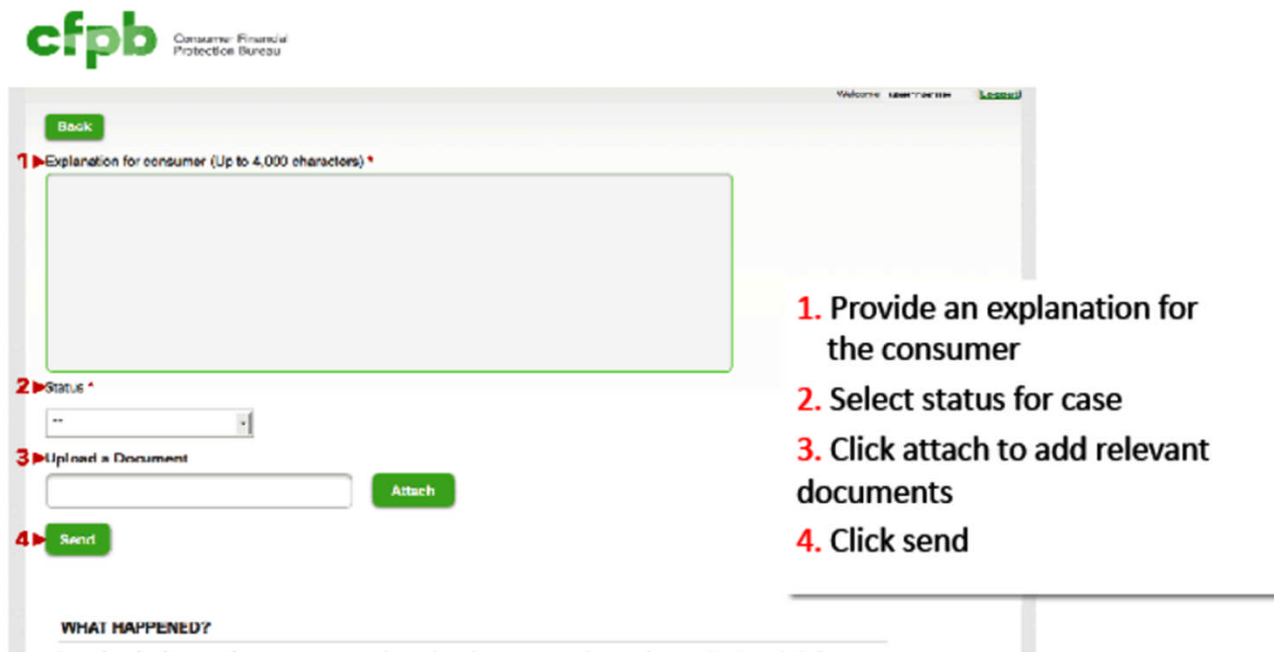
1. Click on the case number to access a case



Company Portal Process

CASE REVIEW

Providing a Resolution Status Cont.



cfpb Consumer Financial Protection Bureau

Welcome [user name] Logout

Book

- 1 Explanation for consumer (Up to 4,000 characters) *
- 2 Status *
- 3 Upload a Document
- 4 Send

WHAT HAPPENED?

1. Provide an explanation for the consumer
2. Select status for case
3. Click attach to add relevant documents
4. Click send

9



Company Portal Process

Complaint resolution options:

1. Closed with monetary relief
2. Closed with non-monetary relief
3. Closed with explanation
4. Closed



Company Portal Process

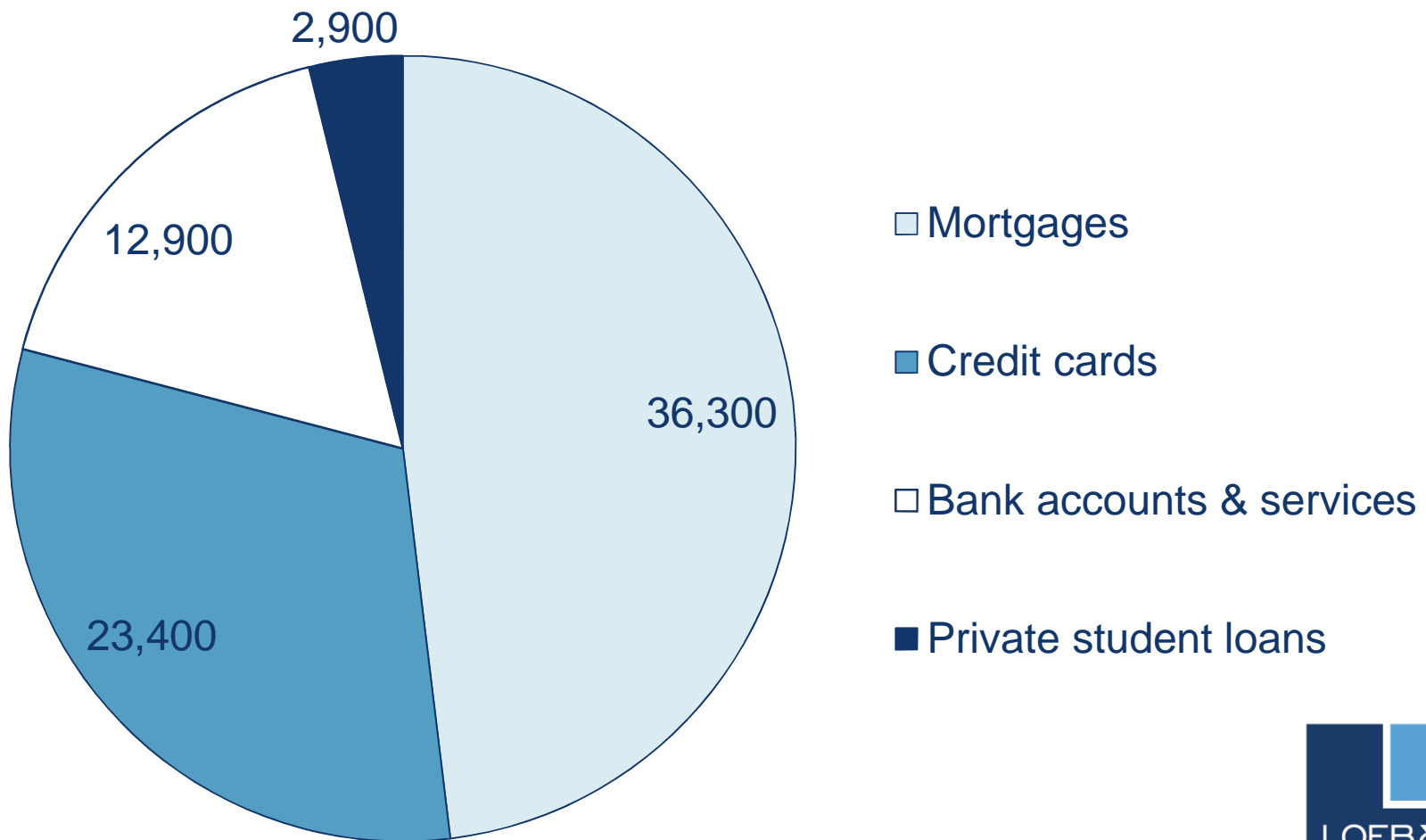
What Happens Next:

- CFPB determines if it has “issue jurisdiction”
- Reconciles “what happened”
 - Follow up with consumer and/or company, as needed
- Identifies suspected violations – **refer to Enforcement**
- Identifies consumer educational opportunities – **refer to Consumer Education**
- Communicates with consumer about resolution



Snapshot of Complaints to date

79,200 Total Complaints

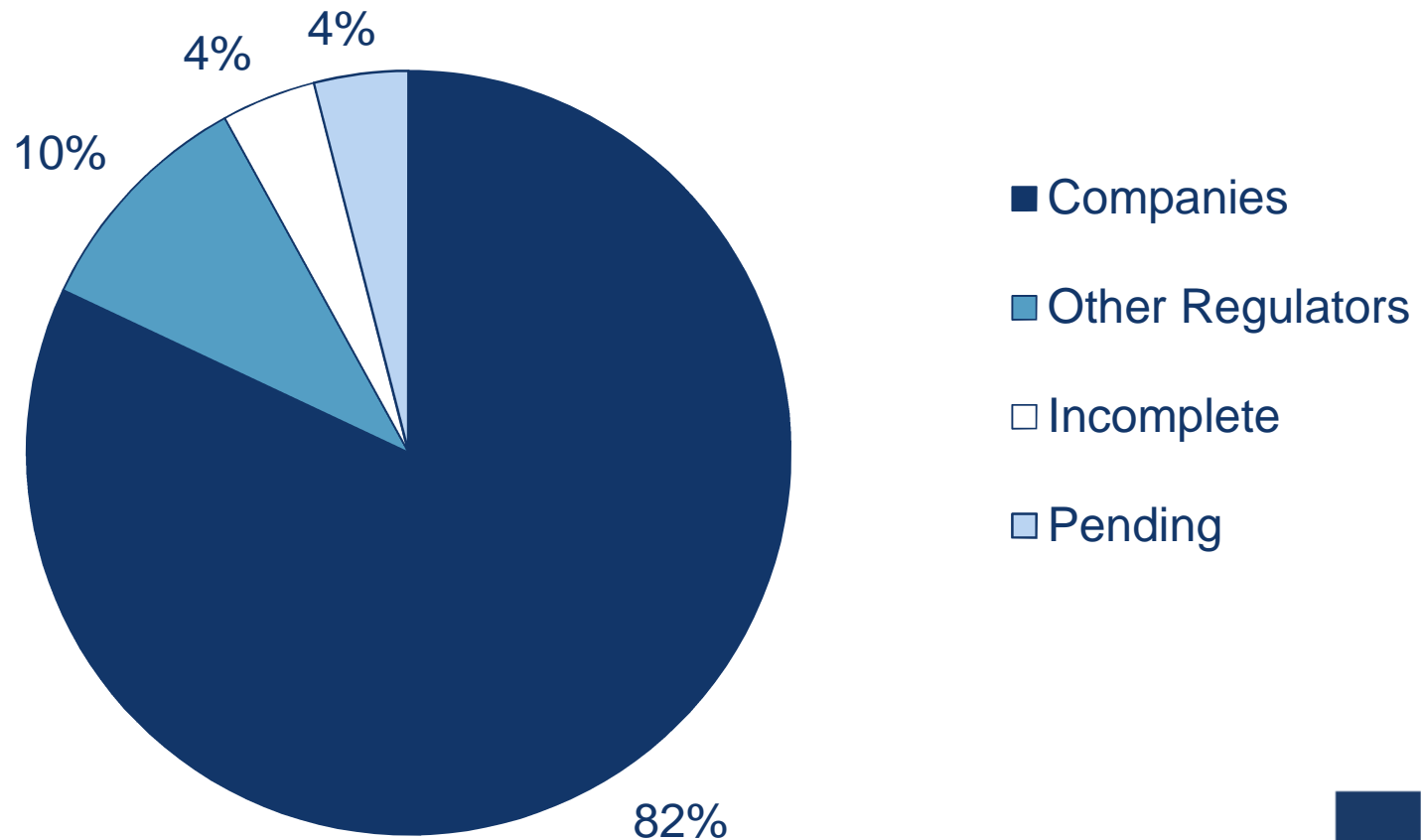


As of September 30, 2012



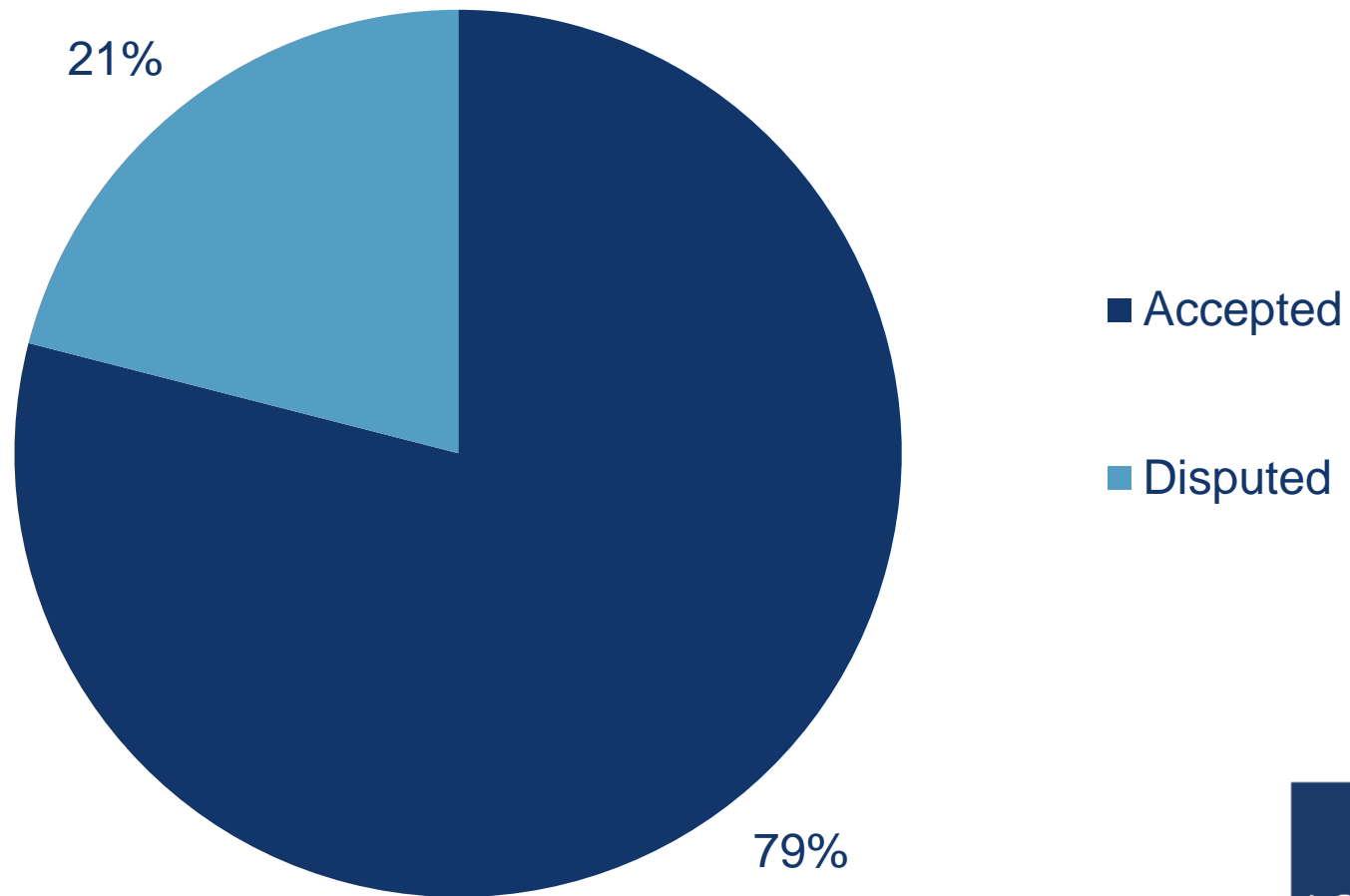
Snapshot of Complaints Forwarded

Complaints Forwarded by CFPB



Snapshot of Consumer Responses

Consumer Reactions to Company Responses



Company Portal Process

How Do You Enroll in the Company Portal Program

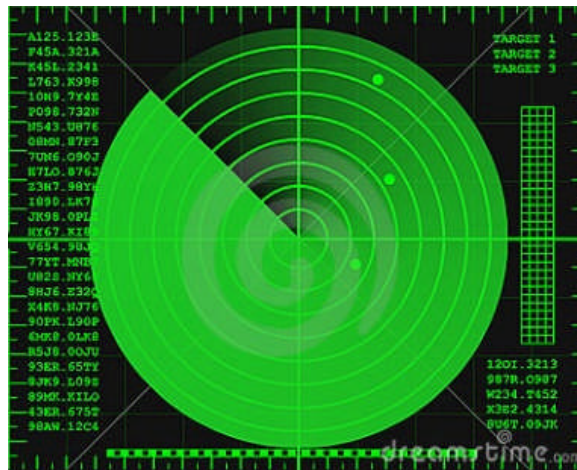
- Email CFPB_Flassistance@cfpb.gov
- Provide your company name
- Provide name, phone number, and email address of your company's point of contact

CFPB's Consumer Response unit will review the request and follow-up with the designated contact.



Why Should I Participate in the Program

- Opens a communication channel with the CFPB
- Signals your company's willingness to cooperate
- CFPB's short deadlines encourage faster resolutions
- Transparent process allows CFPB to observe company's proactive responses to complaints
- Lets you know what the CFPB (and other agencies) know about you!



What Happens If I Don't Respond To A Complaint Within 15 Days (Or At All)

1. Missed opportunity to resolve consumer and compliance issue
2. Bad start with the CFPB
3. Likely triggers an Enforcement Division investigation
4. Failing to respond is a CFPA violation



What Happens If I Don't Respond To A Complaint Within 15 Days (Or At All)



A “covered person” must “provide a timely response” to a consumer complaint or inquiry.

- Must include:
 - (1) steps taken to respond to the consumer’s complaint or inquiry
 - (2) responses received from the consumer
 - (3) follow-up actions in response to the complaint or inquiry

CFPA, 12 U.S.C. 5534(b)



CFPB Penalties for Violations

Statutory Penalties:

- First Tier – violation of a law, rule, final order or CFPB-imposed condition
 - cannot exceed \$5,000 **for each day** violation continues
- Second Tier – **reckless** violation of a Federal consumer financial law
 - cannot exceed \$25,000 **for each day** violation continues
- Third Tier – **knowing or intentional** violation of a Federal consumer financial law
 - cannot exceed \$1,000,000 **for each day** violation continues
- Must notify U.S. Attorney General for possible criminal proceedings if there is evidence of a violation of federal criminal law.



CFPB Penalties for Violations

Equitable and Injunctive Remedies:

- Rescission or reformation of contracts
- Refund of monies or return of real property, restitution
- Disgorgement or compensation for unjust enrichment
- Public notification regarding the violation, including costs of notification
- Limitations on the activities or functions of the person

Other Remedies:

- Other monetary relief
- Recovery of government's attorney's fees and costs



Will Company Portal Responses Be Private?

- Depends on your definition of “private”!
- CFPB: “Theoretically”
 - Portal communications arguably subject to FOIA exemptions:
 - (1) Trade Secrets/Confidential Financial Information
 - (2) Privileged Inter/Intra-Agency Communications
 - (3) Personal Privacy
- Responses not available to class action attorneys?
- Responses are still available to other regulators



Bottom Line

Upsides:

- Establish a good relationship with the CFPB
- Know what regulators know about your complaints
- “Real time” opportunity to respond

Downsides:

- If you do a poor job of responding to complaints ... you're going to have problems no matter what!
- Don't say anything that you wouldn't want to read in the papers.



Questions?



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Please email us if you would like to be added to our list for periodic alerts on CFPB and FTC developments and other issues relevant to consumer financial companies.

