

NOVEMBER 15, 2012

# CFPB Ombudsman's Office

FY2012 ANNUAL REPORT TO THE DIRECTOR



OMBUDSMAN'S  
OFFICE

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# Message from the Ombudsman

I am pleased to present our first annual report to the Director of the Consumer Financial Protection Bureau, pursuant to the CFPB Ombudsman's Office Charter.

An ombudsman's greatest challenge is to have the ear of the organization as the ombudsman advocates for a fair process. The CFPB is a truly unique space where people at all levels and in all roles are receptive to feedback, suggestions, and recommendations as they review existing Bureau processes and develop new ones. As the CFPB Ombudsman's Office begins our new reporting year, my team and I look forward to continuing the conversation as we seek to ensure a fair process for consumers and providers of consumer financial products and services as they interact with the CFPB.

Wendy Kamenshine  
CFPB Ombudsman

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# Introduction

The Dodd-Frank Wall Street Reform and Consumer Protection Act, Section 1013(a)(5), requires the establishment of a Consumer Financial Protection Bureau Ombudsman’s Office (CFPB Ombudsman).<sup>1</sup>

The CFPB Ombudsman advocates for a fair process as between consumers, the providers of consumer financial products and services, and the CFPB. As with other ombudsman offices, the basic ombudsman tenets of independence, impartiality, and confidentiality allow the Ombudsman to advocate for a fair process:

- **Independence** – The Ombudsman reports to the CFPB’s Deputy Director with access to the Director. This reporting line ensures the Ombudsman’s independence within the CFPB. It also allows us to act as an early warning system and serve as a catalyst for change, if needed.
- **Impartiality** – We do not take sides in reviewing an issue. We do not take the side of the consumer, financial institution, or the CFPB. Instead, we advocate for a fair process.
- **Confidentiality** – We have put safeguards in place to preserve confidentiality. We will not share someone’s identifying information outside of our Office unless the person indicates that we can. We also may have to share it if there is a threat of imminent risk of serious harm, the person raised an issue of government fraud, waste, or abuse, or if required by law.

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<sup>1</sup> In this report, “Ombudsman” refers to the Office, the staff, or the person.

The Ombudsman encourages everyone first to use the regular avenues that the CFPB offers to address an individual or systemic issue relating to the CFPB, as we want those regular avenues to work well. Individuals, companies, or groups reach the Ombudsman when the regular avenue does not work for some reason, or they wish to highlight a concern in confidence. The Ombudsman reviews each issue impartially and may make a recommendation to the CFPB to change its process. Specifically, we make recommendations either on existing processes if their application does not lead to a fair process, or where implementing a new process would achieve a fair process.

This first annual report to the Director reflects the CFPB Ombudsman's activities from July 2011, when we began establishing the foundational elements for the Office, through September 30, 2012, the end of the first fiscal year in operation. It describes the setup phase of the Office, informal feedback provided to the CFPB, individual inquiry data, systemic analyses, and objectives for FY2013.

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# Opening of the CFPB Ombudsman's Office

Before opening its doors, the CFPB Ombudsman established many of the foundational elements necessary to advocate for a fair process as between consumers, providers of consumer financial products and services, and the CFPB. First, to ensure its independence, the Ombudsman recommended its current placement on the organizational chart to ensure that the Ombudsman reports directly to the Deputy Director and is not within the CFPB's operating divisions or Front Office. In addition, the Ombudsman recommended the focus areas for the Ombudsman's Office include individual or systemic issues surrounding: supervisory activities, for example, regarding an examiner or the examination process; the enforcement process; the consumer complaint process; supervisory appeals, to resolve issues prior to appeal or address process issues during appeal; and matters between agencies, as a facilitator.

Other foundational elements to setting up the Office included:

- Writing an Ombudsman’s Office Charter, signed by the Deputy Director and CFPB Ombudsman;
- Developing one of the first CFPB records disposition schedules sent to the National Archives and Records Administration;
- Publishing a Systems of Records Notice in the Federal Register;
- Building an Ombudsman team;
- Establishing Office facilities and technology requirements to ensure confidentiality of inquiries;
- Writing Office policies and procedures;
- Establishing a separate line item in the CFPB’s budget to ensure the Ombudsman’s independence;
- Creating a separate CFPB Ombudsman webpage on [consumerfinance.gov](http://consumerfinance.gov);
- Developing an intranet page to share the Ombudsman role and activities with the CFPB;
- Designing an Ombudsman brochure, available at [consumerfinance.gov/ombudsman](http://consumerfinance.gov/ombudsman);
- Designing tracking categories to understand and report on the individual inquiries received by the Ombudsman to inform its recommendations to the CFPB; and
- Standardizing contact with the CFPB’s Office of Consumer Response (Consumer Response) to facilitate resolution of individual consumer inquiries to the Ombudsman.

An initial and ongoing element of the Ombudsman’s work is sharing information about the role and answering questions about the role. The Ombudsman first held individual meetings

with nearly every CFPB Assistant and Associate Director, met with Regional Directors and Field Managers, and briefed Bureau divisions and offices. The Ombudsman also began an outreach program during the reporting period to meet with consumer groups, groups working with the providers of consumer financial products and services, and individual supervised financial entities to share information about the Office.

The Ombudsman opened to the public on December 8, 2011, more than one month ahead of the Dodd-Frank statutory deadline, with the first phase of a planned rollout.

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## Regular Feedback to the CFPB

Throughout the reporting period, the CFPB Ombudsman provided informal feedback in regular meetings with Bureau leaders and in meetings requested by Bureau divisions, offices, or the Ombudsman. The Ombudsman provided informal feedback on many topics, including: the consumer complaint process; content within AskCFPB, available on [consumerfinance.gov](http://consumerfinance.gov); the supervisory examination appeals process; the second launch of [consumerfinance.gov](http://consumerfinance.gov); the public Consumer Complaint Database; and the advisory boards and councils. The Ombudsman found that the entire Bureau was receptive to our informal feedback throughout the reporting period.

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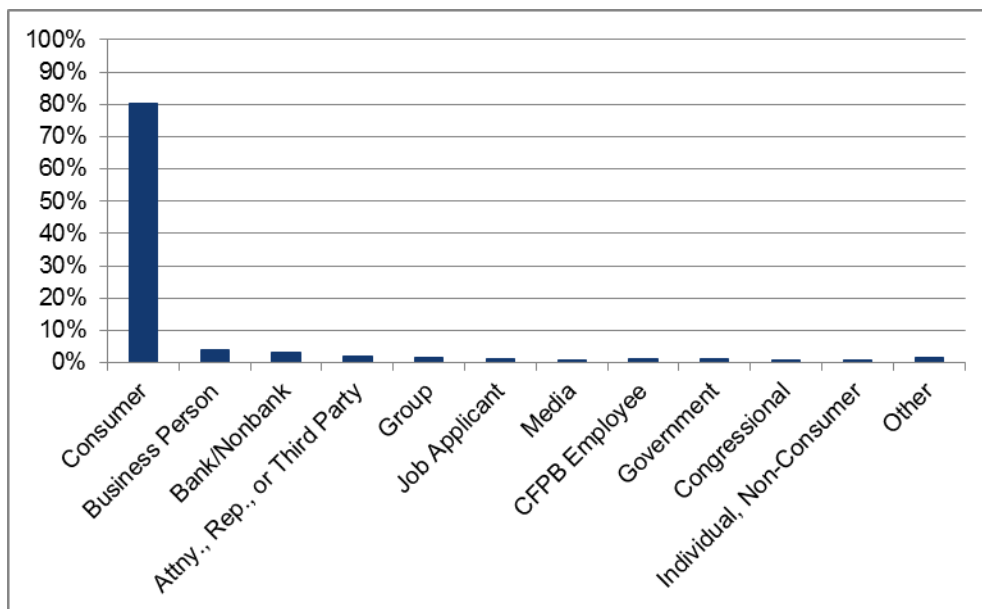
## Individual Inquiries

On the second day of operation in December 2011, the CFPB Ombudsman began receiving individual inquiries. To advocate for a fair process, we review each inquiry with an impartial lens considering all sides of an issue to determine how we may assist. Depending on the

issue we may: review the applicable laws, regulations, policy, and data; talk with the person or entity involved; and/or meet with CFPB officials. We then may make a recommendation to the CFPB on how to further assist the person or entity.

In the nearly 10 months since the CFPB Ombudsman opened, we received 775 inquiries. Over 80 percent of those inquiries were from consumers who reached the Ombudsman with questions or issues regarding the processes, services, products, or entities under the CFPB’s jurisdiction.<sup>2</sup> The next highest categories included: “Business Person,” approximately 4 percent and “Bank/Nonbank Contact,” approximately 3 percent.<sup>3</sup> All other categories, as seen in Figure 1 below, each accounted for less than three percent.

**FIGURE 1: WHO REACHED THE OMBUDSMAN**



<sup>2</sup> From July 2011, when the CFPB opened, through September 2012, consumers filed over 79,000 complaints and made over 61,000 inquiries with Consumer Response. As such, more consumers interface with the CFPB than the much smaller number of financial institutions, which may explain the higher percentage of consumer inquiries to the Ombudsman’s Office.

<sup>3</sup> “Business Person” is an individual who has an inquiry related to his business interests. “Bank/Nonbank Contact” is an individual who currently works or previously worked for a provider of financial products or services under the CFPB’s jurisdiction. An individual who works for a provider of financial products or services, but is contacting the Ombudsman about his individual consumer issue is a “Consumer.” The Ombudsman currently does not track outreach meetings with Groups as individual inquiries.

The public can reach the CFPB Ombudsman by email ([CFPBOmbudsman@cfpb.gov](mailto:CFPBOmbudsman@cfpb.gov)), toll-free number (855) 830-7880, or fax (202) 435-7888. The Ombudsman also occasionally receives letters to the CFPB Washington, DC, mailing address. In the reporting period, we tracked the first contact a person made to the Ombudsman. Nearly all first contacts were by telephone (approximately 67 percent) or email (approximately 31 percent).

The Ombudsman also tracks issues raised in inquiries received to highlight trends and make recommendations to the CFPB. Each inquiry may include multiple issues. From December 2011 through September 2012, the Ombudsman received 1,003 issues from the 775 inquiries.

In this reporting period, we tracked issues based on nine categories: Consumer Response; Commentary; Bank Supervision; Nonbank Supervision; Enforcement Related; Interaction with the CFPB; Ombuds External; Redirect; and Other. Most of these categories have subheadings to reflect a particular action, question, comment, concern, or complaint from the perspective of the person who reached the Ombudsman. For example, “Ombuds External-Information about the Office” reflects someone who asked for more information about this resource.

**FIGURE 2: ISSUES RECEIVED BY THE OMBUDSMAN**

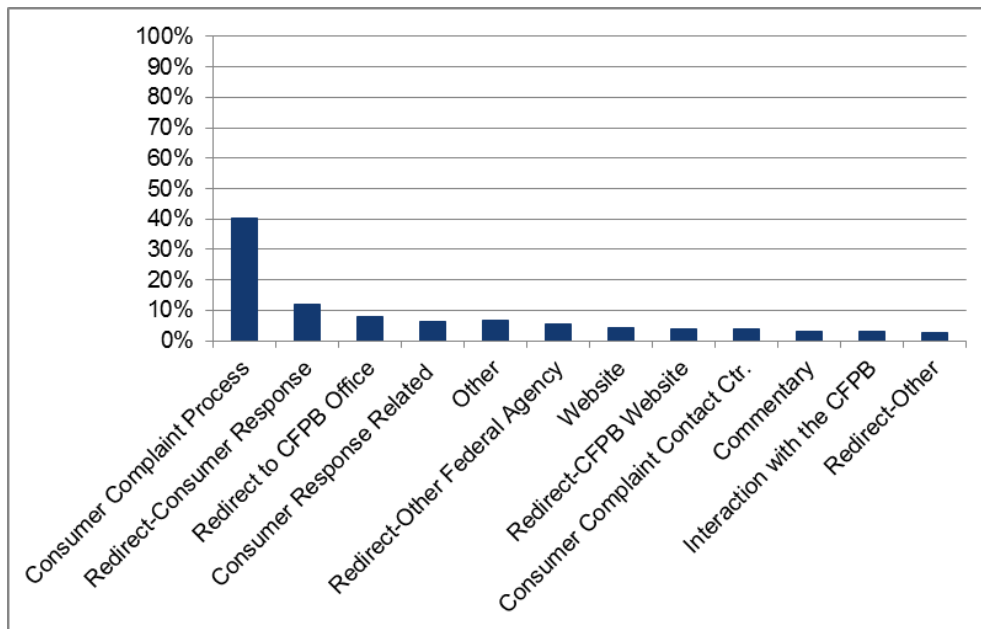




Figure 2 summarizes the main issues received by the Ombudsman.<sup>4</sup>

- **Consumer Complaint Process** – Issues pertaining to the need for increased process transparency;
- **Consumer Complaint Contact Center** – Interactions with the consumer complaint contact center (855) 411-CFPB (2372);
- **Consumer Response Related** – Other issues regarding the consumer complaint process that are not related to the need for increased process transparency;
- **Commentary** – Opinions on how something should proceed at the Bureau or elsewhere;
- **Interaction with the CFPB** – Topics related to the CFPB’s interaction with the public more generally, such as individuals seeking business opportunities with the Bureau;
- **Redirects** – The Ombudsman provides information to reach another CFPB division, office, or resource, or somewhere outside the CFPB that can assist; and
- **Website** – Issues pertaining to the usage of [consumerfinance.gov](http://consumerfinance.gov).

As shown in Figure 2, approximately 40 percent of the issues received reflected a need for further understanding of the CFPB’s consumer complaint process. For example, some consumers shared that they did not understand the timing of each phase of the complaint process and what to expect at each stage. Other consumers shared that they could not understand why Consumer Response closed their consumer complaint after the investigation.

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<sup>4</sup> The percentage listed equals the number of issues in each grouping divided by the number of total issues received.

For approximately 12 percent of the issues received, the Ombudsman redirected the person back to Consumer Response, for example, where the person had not yet filed a consumer complaint, or a Consumer Response Specialist was reviewing the complaint.

In addition, for approximately 8 percent of the issues received, the Ombudsman provided information to a person to reach another CFPB office.

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## Systemic Reviews

In addition to individual inquiries, the Ombudsman reviews systemic issues that may be affecting individuals nationwide, in a particular region, or with a certain process. We decide to review topics as systemic issues to see if we may have helpful recommendations to share with the CFPB. To make those recommendations and advocate for a fair process, an ombudsman has a toolbox of resources to use depending upon the circumstances and issues involved.

The Ombudsman recommendations may be: also suggested by others, but not implemented; ideas shared with the Ombudsman as we explored an issue; or, the Ombudsman's ideas of how to address an issue. The objective is to affect change, but sometimes there are other possible solutions that also may work to reach the same result and we welcome implementation of those ideas.

In this reporting period, there were two issues we reviewed as systemic issues: what consumers understand about the consumer complaint process and the presence of enforcement attorneys at supervisory exams.

# Consumer Complaints: Setting Expectations and the Need for Transparency

A consumer may contact the Ombudsman about the CFPB's consumer complaint process anytime during the complaint lifecycle to raise a process concern in confidence or after first attempting to resolve the issue with the CFPB. As a new agency, Consumer Response established a mechanism to assist consumers and address consumer complaints for several product lines over a very short timeframe. Many of the issues consumers shared with the Ombudsman in this reporting period we categorize as start-up issues as Consumer Response continues to develop the consumer complaint function and expand it to accept complaints about additional types of consumer financial products and services. This section highlights some of these issues, the Ombudsman's informal recommendations throughout the reporting period, and Consumer Response's receptivity to feedback and changes to address these issues.

## Sharing the Process

During the reporting period, consumers asked the Ombudsman for clarification about the CFPB's consumer complaint process. As described above, approximately 40 percent of the issues the Ombudsman received over nearly 10 months reflected a need for further understanding of the process. Consumers wanted to know answers to questions such as: the timing for each part of the process; what takes place at each step; why a complaint is considered a duplicate to a complaint previously submitted; and why the CFPB cannot assist on certain issues.

The Ombudsman recommended that the CFPB: provide more information to the public on the consumer complaint process to answer these and other questions through multiple means of communication; share what the Bureau can and cannot do to assist consumers; and highlight which companies currently can accept a consumer complaint from the CFPB.

Beginning with the CFPB's first Semi-Annual Report, reports describing Consumer Response now include a description of the complaint process and screening criteria for complaints. Also, we understand that the consumer complaint contact center and communications to consumers now do explain that the Bureau cannot assist at certain times such as when there is pending or prior litigation. In addition, Consumer Response will soon

add more information to [consumerfinance.gov](http://consumerfinance.gov) to share with the public about the steps of the consumer complaint process.

## Letters to Consumers

Once a consumer receives a company response to a consumer complaint, the consumer may “dispute” the response. Currently, Consumer Response then assigns the complaint to a Consumer Response Specialist for an investigation. At the close of the investigation, the consumer receives a CFPB letter that describes the outcome. Specialists review information from the consumer and the company to understand each perspective, and research the applicable laws and regulations. Some consumers shared with the Ombudsman that the letters do not provide detailed information about the complaint result. For example, the letters do not describe why the CFPB could not assist, or what is in dispute if the closeout letter highlights a factual dispute. The letters also repeat parts of the company’s response, but may not reflect the company’s full response or address the consumers’ set of issues.

The Ombudsman recommended that Consumer Response add information to the letters to provide more information and transparency to consumers.

In recent months, Consumer Response has conducted a complete review of all of their consumer letters to revise the language used and include more information that may be useful to the consumer.

## Consumers Without Computer Access

Consumers who do not have Internet access or know how to use a computer reached out to the Ombudsman to receive consumer complaint status updates, obtain letters they did not receive from the CFPB, and “dispute” a company answer when they did not receive notification of the opportunity. Earlier in the reporting period, these consumers received limited status updates on their cases unlike consumers with computer technology. In addition, they sometimes missed the opportunity to dispute a company’s response because a letter affording that opportunity arrived with only a few days left to dispute or after the dispute deadline. Consumers with computer technology received the dispute notification via email with 30 days to respond.

The Ombudsman recommended that consumers without computer technology receive additional notifications in the mail and a longer period of time to dispute their consumer complaint.

The Ombudsman understands that Consumer Response implemented some changes over the course of the reporting period to provide consumers without computer technology the same service as those individuals who have such access.

## Supervisory Examinations: Presence of Enforcement Attorneys

Providers of consumer financial products and services may contact the Ombudsman about process issues regarding the CFPB's supervisory activities or enforcement process if they wish to raise the concern in confidence or after they attempted to resolve the issue with the CFPB. As a new agency, the CFPB considered the experiences of other agencies and decided to make supervision and enforcement an integrated process within one CFPB division, and to involve enforcement attorneys at the beginning, middle, and end of the supervision examination. Over time, the CFPB shared this approach and policy throughout the CFPB and publicly, indicating that the policy: promotes efficiency; educates the enforcement attorney about the examination process; and enables the enforcement attorney to provide a supportive role to the examination team. This section discusses the Ombudsman's review, recommendations to the CFPB, and next steps.

During the reporting period, the Ombudsman heard concerns from groups that work with providers of consumer financial products and services regarding the CFPB's policy to include enforcement attorneys at the supervisory examinations. As an advocate for a fair process, the Ombudsman reviewed the implementation of this policy. The Ombudsman considered all perspectives by meeting individually with CFPB leaders and staff, as well as bank officials, outside attorneys, and consultants.<sup>5</sup> From this research, the Ombudsman heard different understandings about implementation of the policy. Individuals also shared benefits of the policy, such as efficiency of process, as well as drawbacks, such as the potential for the policy to be a barrier to a free exchange during the examination.

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<sup>5</sup> The Ombudsman met with some groups representing providers of consumer financial products and services that do not work with banks, but did not hear about this issue from individual financial institutions that are not banks.

To reflect on the success and challenges of the new policy, achieve consistency in its implementation, and improve transparency with CFPB staff and supervised entities, the Ombudsman recently recommended that the CFPB review implementation of the policy to have enforcement attorneys present at supervisory examinations. Until that review is complete, the Ombudsman recommended that the CFPB establish ways to clarify the Enforcement Attorney role in practice at the supervisory examination.

The Ombudsman understands that the CFPB now is considering these recent recommendations.

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## Objectives for FY2013

For the next fiscal year, the CFPB Ombudsman will continue addressing individual and systemic inquiries that we receive from consumers and providers of consumer financial products and services. We also will focus on:

- **Inreach** – Continuing to share information about the Ombudsman’s role with CFPB staff nationwide, and particularly with new staff who join the Bureau.
- **Outreach** – Building on our outreach to make consumers and the providers of consumer financial products and services aware of the Ombudsman resource.
- **Statistics** – Sharing additional statistical data with CFPB leadership to highlight the issues received by the Ombudsman and further inform the CFPB on recommendations for change.