

# CALLING ON THE CFPB FOR HELP: TELLING STORIES AND CONSUMER PROTECTION

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## I

### INTRODUCTION

“Please help!!”<sup>1</sup> “I hope the CFPB can help?”<sup>2</sup> “Thank you for your time and consideration and for your commitment to ensuring that consumer[s] are treated fairly and not unjustly taken advantage of. That means more than words can express.”<sup>3</sup>

The creation of the Consumer Financial Protection Bureau (CFPB) marked a crucial moment in modern consumer law and coincided with the growing public outcry against banks and other financial institutions in the wake of the 2008 financial crisis.<sup>4</sup> One of the CFPB’s primary functions is collecting, monitoring, and responding to consumer complaints regarding consumer financial products and services.<sup>5</sup> To fulfill this function, the CFPB established an interactive webpage that permits consumers to submit complaints based on particular

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1. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1592858*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> [<http://perma.cc/X7Q8-3Z7Z>] (last visited Feb. 20, 2017) (filtering for the Complaint ID provides the accompanying complaint narrative).

2. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1393302*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

3. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1794836*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

4. See Angela Littwin, *Why Process Complaints? Then and Now*, 87 TEMP. L. REV. 895, 895 (2015) (“The CFPB is the most important recent development in consumer law.”).

5. Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. No. 111-203, § 1013(b)(3)(A), 124 Stat. 1376, 1969 (2010) (codified at 12 U.S.C. § 5493 (2012)). For a discussion of the CFPB’s other duties, see generally Adam J. Levitin, *The Consumer Financial Protection Bureau: An Introduction*, 32 REV. BANKING & FIN. L. 321 (2013).

product groups.<sup>6</sup> The web form for every product contains a text box in which the consumer may write a narrative about her complaint.<sup>7</sup> As of September 2016, the CFPB has handled one million complaints submitted by consumers.<sup>8</sup>

In June 2015, the CFPB began publishing consumers' narratives of the problems they are facing as part of its public Consumer Complaint Database (the Database).<sup>9</sup> Over half of consumers who file complaints choose to allow the CFPB to make their narratives public.<sup>10</sup> The CFPB publishes over 5,000 complaint narratives on a monthly basis.<sup>11</sup>

This article uses these narratives to investigate the role of the CFPB's complaint mechanism in helping people voice, solve, and come to terms with their problems with consumer credit and financial service providers. It focuses in particular on how people engage with the complaint function in light of how the CFPB and its enacting legislation envisioned the role of taking and processing complaints. In brief, people mainly use the narrative function for one of two purposes: to express their anger and frustration about a company's practice, or to express sadness and fear about how a company's practice has impacted their lives. When people write with anger and frustration, they typically raise specific legal claims, thank the CFPB for its work generally, or ask the CFPB to investigate the company's practices, as evident in the third narrative excerpted above.<sup>12</sup> But when people write with sadness and fear, they are more likely to ask—often plead with—the CFPB for help with their individual problems, as evident in the first two narratives excerpted above.<sup>13</sup> In this way, people expressing sadness and fear are voicing what amounts to trauma stemming from their financial situations,<sup>14</sup> and are asking the CFPB for assistance that it will not be able to give.

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6. *Submit a Complaint*, CFPB, <http://www.consumerfinance.gov/complaint/> [<http://perma.cc/UM65-GTLB>] (last visited Nov. 28, 2016). Consumers also can submit complaints via telephone mail, email, or fax. From the complaint function's inception to June 30, 2014, fifty-six percent of complaints were submitted through the CFPB's website. See Littwin, *supra* note 4, at 900 n.44. See *infra* Part III.B for the products about which consumers may submit complaints.

7. See Katherine Porter, *The Complaint Conundrum: Thoughts on the CFPB's Complaint Mechanism*, 7 BROOK. J. CORP. FIN. & COM. L. 57, 66–67 (2012) (discussing the web forms); *Submit a Complaint*, *supra* note 6.

8. Chris Johnson, *What Happens to You Counts*, CFPB BLOG (Sept. 27, 2016), <http://www.consumerfinance.gov/about-us/blog/what-happens-you-counts/> [<http://perma.cc/EM7Y-C7W3>].

9. *CFPB Publishes Over 7,700 Consumer Complaint Narratives About Financial Companies*, CFPB (June 25, 2016), <http://www.consumerfinance.gov/about-us/newsroom/cfpb-publishes-over-7700-consumer-complaint-narratives-about-financial-companies/> [<http://perma.cc/T8BE-ZMA2>].

10. *Id.*

11. See *infra* Part III.A.

12. See *Complaint ID 1592858*, *supra* note 1; *infra* Part V.

13. See *Complaint ID 1393302*, *supra* note 2; *Complaint ID 1794836*, *supra* note 3; *infra* Part V.

14. Although the definition of trauma has clinical permutations (for instance, Post-Traumatic Stress Disorder), it also can denote “a very difficult or unpleasant experience that causes someone to have mental or emotional problems usually for a long time.” *Trauma*, MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/trauma> [<http://perma.cc/3V9W-FYAP>] (last visited Nov. 28, 2016). Having suffered what they believe to be inequitable practices at the hands of financial services providers that threaten their ability to survive, consumers' sadness and fear could lead to mental or emotional distress.

That people expect the CFPB to provide assistance with individual problems through the complaint mechanism, though concerning, identifies a new way in which the CFPB could help people in need. The CFPB is not equipped to help people on an individual basis as envisioned by complainants, and this is not the goal of its complaint mechanism. But if it does not address the serious problems that consumers are voicing through these complaints, people may continue to suffer and become disillusioned with the CFPB, which in turn may inhibit its ability to advance consumer protection.<sup>15</sup>

Other federal and state agencies, such as the Federal Trade Commission, also maintain similar complaint databases with narratives features. These databases likewise may contain identifiable subsets of people expressing serious issues in their lives. Indeed, the dichotomy of narratives in the CFPB complaint database was readily noticeable, which suggests that other agencies may be able to easily identify groups of constituents who use their complaint functions to ask for assistance or to voice problems beyond the scope of the agencies' capabilities.

This article addresses how both the CFPB and these other agencies may mine their databases to help people in need. It offers suggestions for how the CFPB may identify and inexpensively help consumers who are using the complaint function to voice broader issues stemming from their financial problems. It further recommends how other government agencies can operationalize these suggestions to identify opportunities to assist their constituents.

This article's inquiry and findings are only possible now that the CFPB publishes complaint narratives. To date, the CFPB primarily has issued monthly and annual reports that provide "high-level snapshot[s] of trends in consumer complaints."<sup>16</sup> And although scholars have detailed the CFPB's formation, duties and powers, and enforcement actions,<sup>17</sup> only a handful of articles focus specifically on the complaint-processing part of the CFPB's responsibilities.

Soon after the CFPB's formation, Katherine Porter examined how it initially discharged its consumer complaint duties, and ultimately concluded that the CFPB's taking and handling of complaints is unlikely to improve consumer

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15. This goal is evident in the first words that people read when they enter the CFPB's homepage: "We are the Consumer Financial Protection Bureau, a U.S. government agency that makes sure banks, lenders, and other financial companies treat you fairly." *Consumer Financial Protection Bureau*, CFPB, <http://www.consumerfinance.gov/> [<http://perma.cc/ZB7K-MD6J>] (last visited Nov. 28, 2016).

16. 14 CFPB MONTHLY COMPLAINT REP. 1 (2016). All reports using data from the Consumer Complaint Database are available at *Research & Reports*, CFPB, [http://www.consumerfinance.gov/data-research/research-reports/?filter2\\_categories=consumer-complaint](http://www.consumerfinance.gov/data-research/research-reports/?filter2_categories=consumer-complaint) [<http://perma.cc/UHH6-8H22>] (last visited Nov. 28, 2016).

17. See, e.g., Jean Braucher & Angela Littwin, *Examination as a Method of Consumer Protection*, 87 TEMP. L. REV. 807, 811–12 (2015) (assessing how the CFPB's examination powers has the potential to promote consumer protection); Leonard J. Kennedy et al., *The Consumer Financial Protection Bureau: Financial Regulation for the Twenty-First Century*, 97 CORNELL L. REV. 1141, 1143 (2012) (reviewing the CFPB's startup); Levitin, *supra* note 5, at 322 (providing "a legal and political overview of the CFPB"); Christopher L. Peterson, *Consumer Financial Protection Bureau Law Enforcement: An Empirical Review*, 90 TUL. L. REV. 1057, 1063 (2016) (analyzing "all publicly announced CFPB enforcement actions").

protection.<sup>18</sup> Once the CFPB had handled tens of thousands of complaints, but prior to the publishing of narratives, Angela Littwin evaluated the process on the basis of its ability to settle disputes, inform regulatory activities, and generate good will for the CFPB.<sup>19</sup> Like Porter, Littwin came to mixed conclusions about the effectiveness of the complaint processing function in light of the resources necessary to carry it out successfully.<sup>20</sup>

Finally, Ian Ayres, Jeff Lingwall, and Sonia Steinway analyzed a dataset of 110,000 consumer complaints to assess the timeliness of company responses and the likelihood that demographic subsets of the population would use the complaint process.<sup>21</sup> They found that the timeliness of companies' responses to complaints differed based on company, product type, and geographic area, and that the number of submitted complaints varied by race, age, and education level.<sup>22</sup> Based on these results, they suggested companies and geographic areas that the CFPB might target to encourage timelier responses and increased use of the complaint feature.<sup>23</sup>

Notably, in discussing how the CFPB is tasked with handling the complaints, both Porter and Littwin reference in passing what might be thought of as an expressive role of the complaint process. A government-run complaint device gives people a conduit to voice their problems and what they would like to see happen.<sup>24</sup> What people may want most is a response from the financial service provider.<sup>25</sup> In addition, the mere fact that someone besides their creditors hears their concerns and is working to solve widespread issues like theirs may satisfy complainants, regardless of whether their particular complaints are resolved by the CFPB itself.<sup>26</sup> The ability to complain to the CFPB also provides perhaps the only venue for some consumers to seek relief against financial service providers because they lack the awareness that their claims amount to legal violations, or the money and time to pursue their grievances in court.<sup>27</sup>

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18. See generally Porter, *supra* note 7.

19. See generally Littwin, *supra* note 4. Littwin drew her inspiration for her analysis from William Whitford's and Spencer Kimball's *Why Process Consumer Complaints? A Case Study of the Office of the Commissioner of Insurance of Wisconsin*, 1974 WIS. L. REV. 639 (1974). Littwin, *supra* note 4, at 895.

20. Littwin, *supra* note 4, at 944–46.

21. Ian Ayres et al., *Skeletons in the Database: An Early Analysis of the CFPB's Consumer Complaints*, 19 FORDHAM J. CORP. & FIN. L. 343, 343 (2014).

22. *Id.* at 345–47.

23. *Id.* at 367–68.

24. Porter, *supra* note 7, at 75–77.

25. Littwin, *supra* note 4, at 922 (interviewing CFPB employees about the complaint function and noting that one stated that consumers contacted the company that they complained about on average three times without results before submitting a complaint).

26. Porter, *supra* note 7, at 82 (noting that the CFPB has striven to show consumers that it is a “cop on the beat” of consumer protection, and that taking complaints is one way it does so).

27. Littwin, *supra* note 4, at 904–05 (noting that a “reason for a government agency to process consumer complaints is to provide a forum for resolving consumer issues that might not otherwise be addressed”); Porter, *supra* note 7, at 77 (discussing the complaint function as a “litigation substitute”).

Significant attention has not been devoted to the complaint function's potential expressive role because of the broader scope of prior articles and data limitations. Leveraging the narratives in the Database, this article focuses specifically on that expressive role, with the ultimate goal of offering suggestions for how the CFPB and other agencies may enhance the effectiveness of their complaint mechanisms in light of how people are engaging with those mechanisms' narratives features. To frame the discussion, part II overviews the scope of the Database and the complaint process. Part III, describes my empirical strategy to leverage the narratives, the analysis of which is divided over two parts.

Part IV assesses the language that people use to characterize their problems with companies. Part V reviews when people raise legal issues through their narratives, and analyzes the language complainants use to phrase their requests of companies and the CFPB to understand what role people expect the CFPB to take in resolving their grievances. The article concludes by returning to the question put forth in prior work about how effectively the complaint function advances consumer protection, and proposes how the CFPB and other agencies may use their complaint databases to supplement how they assist their constituents.

## II

### HOW CONSUMERS' STORIES ARE HEARD

Part of the CFPB's statutory mandate is to collect, monitor, and respond to consumers' complaints regarding consumer financial service products and services.<sup>28</sup> To collect complaints, the CFPB established an interactive webpage.<sup>29</sup> Consumers who submit complaints via the webpage have the option to write narratives describing their problems<sup>30</sup> and the option to allow the CFPB to make the narratives public.<sup>31</sup> The CFPB does not review complaints initially. Instead, it sends the complaints directly to the subject companies. To ensure that people understand the CFPB's role in complaint disposition, a box at the top of its "submit a complaint" webpage prominently states: "Have an issue with a financial product or service? We'll forward your complaint to the company and work to get a response from them."<sup>32</sup>

After confirming a complaint's veracity,<sup>33</sup> the CFPB forwards the complaint to the subject company through a web portal it maintains to communicate with

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28. The Dodd-Frank Act gives the CFPB detailed instructions about how it should fulfill these requirements. *See* Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. No. 111-203, § 1013(b)(3), 124 Stat. 1376, 1969 (2010) (codified at 12 U.S.C. § 5493 (2012)); Porter, *supra* note 7, at 58 (noting that "the CFPB has less flexibility in designing how to address consumer complaints than it enjoys for some of its other duties").

29. *See supra* text accompanying note 6.

30. *See supra* note 7 and accompanying text.

31. *See CFPB Publishes Over 7,700 Consumer Complaint Narratives About Financial Companies, supra* note 9.

32. *Submit a Complaint, supra* note 6.

33. *See* Ayres et al., *supra* note 21, at 356 (detailing how the CFPB verifies complaints).

financial service providers.<sup>34</sup> It also publishes a Company Portal Manual that details how companies must respond to complaints and delineates the five available final response categories: closed with monetary relief, closed with non-monetary relief, closed with administrative response, closed with explanation, and closed (without relief or explanation).<sup>35</sup> To respond timely, a company must respond within fifteen days.<sup>36</sup> Failure to timely respond may lead the CFPB to prioritize a complaint for investigation, part of its respond function.<sup>37</sup> Once the CFPB receives the response, consumers have thirty days to dispute the company's response or to otherwise provide feedback.<sup>38</sup>

To monitor complaints, the CFPB designed a system that allows it to track complaints' sources, contents, and dispositions.<sup>39</sup> It uses this system to publish statutorily required reports that "include information and analysis about complaint numbers, complaint types, and, where applicable, information about resolution of complaints"<sup>40</sup> and other reports that similarly focus on products about which the CFPB takes complaints.<sup>41</sup> It also uses the information gleaned from its monitoring to identify practices and financial institutions to track pursuant to its investigative and regulatory functions.<sup>42</sup> These two tasks jointly help show the public that the CFPB is hearing its complaints and taking action.

The CFPB does not respond to complaints in the first instance, which may come as a surprise to some consumers despite its website's prominent clarifying statements. Rather, it is the targeted company that responds. For instance, if a company categorizes a complaint as closed, the company must deliver to the consumer a detailed explanation of the complaint's resolution, including all correspondence between the company and the consumer, as well as a description of the relief provided or to be provided.<sup>43</sup> If the CFPB's Office of Consumer

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34. *Sign Up to Address Complaints*, CFPB, <http://www.consumerfinance.gov/company-signup/> [<https://perma.cc/933S-DGE2>] (last visited Nov. 28, 2016).

35. The CFPB periodically revises this manual to incorporate feedback from companies. The most recent version is version 2.16. CFPB, *COMPANY PORTAL MANUAL* (2016). According to the CFPB, the majority of complaints are closed with explanation, while only a small minority are closed without relief or explanation. See Ayres et al., *supra* note 21, at 357 n.74.

36. Unfair or Deceptive Acts or Practices, 12 C.F.R. § 227.2 (2016). A company is given up to sixty days to provide a full response, as long as it chooses the "in process" option within fifteen days. See Littwin, *supra* note 4, at 901 n.51.

37. See Littwin, *supra* note 4, at 901.

38. See Ayres et al., *supra* note 21, at 357.

39. See Porter, *supra* note 7, at 60 (describing the "monitor" function as a "counting task").

40. Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. No. 111-203, § 1013(b)(3)(C), 124 Stat. 1376, 1969 (2010) (codified at 12 U.S.C. § 5493 (2012)).

41. See *Research & Reports*, *supra* note 16.

42. See CFPB, *CFPB SUPERVISION AND EXAMINATION MANUAL* pt. 1, Examinations, at 3 (2012) (directing CFPB examiners to use the complaint data in determining which companies to examine); CFPB, *SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU SPRING 2016* 20 n.9 (2016) (noting that the complaint function allows the CFPB to "write better rules and regulations"); *How We Use Complaint Data*, CFPB, <http://www.consumerfinance.gov/complaint/data-use/> [<https://perma.cc/A58W-84W6>] (last visited Nov. 28, 2016).

43. See Porter, *supra* note 7, at 67–68 (discussing responses to consumers' complaints).

Response<sup>44</sup> decides that a company's response and resolution of a particular complaint is insufficient, then it can refer the company to the Division of Supervision, Enforcement, and Fair Lending and Equal Opportunity "for further action."<sup>45</sup> The collect and monitor functions thus are the key parts of the complaint mechanism, and most relevant to this article.

To assist in these functions, the CFPB compiles the Consumer Complaint Database. The Database includes information gathered from the complaint process: submission date, product, specific issue, and company complained about, consumer's zip code, company's response, and whether the consumer disputed the company's response.<sup>46</sup> Because the CFPB takes complaints based on product areas, the Database contains complaints about: mortgages, bank accounts and services, credit cards and prepaid cards, private student loans, vehicle loans and leases, payday loans, credit reporting companies, debt collection companies, money transfer, and other consumer loans and financial services.<sup>47</sup> Similarly, because of the CFPB's jurisdiction, the Database only includes complaints about companies within its regulatory and enforcement reach, including: "banks, thrifts, and credit unions with over \$10 billion in assets and their affiliates . . . and over nonbank institutions . . . , in certain specific markets: mortgage companies (originators, brokers, servicers, and providers of loan modification or foreclosure relief services); private education lenders; and payday lenders;" and "larger participants in other nonbank markets."<sup>48</sup> "Larger participants" include consumer reporting companies and debt collection agencies.<sup>49</sup> According to the CFPB, the Database "is the nation's largest public collection of consumer financial complaints."<sup>50</sup>

In June 2012, the CFPB began making the Database available to the public,<sup>51</sup> which includes data omitting complainants' personal information.<sup>52</sup> On June 25,

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44. This office processes consumer complaints. See Littwin, *supra* note 4, at 899 (detailing the functions of the Office of Consumer Complaints).

45. Ayres et al., *supra* note 21, at 355 (quoting CFPB, SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU SPRING 2013 36 (2013)).

46. *Consumer Complaint Database*, CFPB, <http://www.consumerfinance.gov/data-research/consumer-complaints/> [<http://perma.cc/7XUP-F7U4>] (last visited Nov. 28, 2016) (detailing the information available).

47. *Submit a Complaint*, *supra* note 6 (listing the products or services about which consumers may lodge a complaint).

48. CFPB, THE CFPB STRATEGIC PLAN, BUDGET, AND PERFORMANCE PLAN AND REPORT 36 (2016).

49. See Ayres et al., *supra* note 21, at 358.

50. *Consumer Financial Protection Bureau Monthly Complaints Snapshot Spotlights Bank Account and Service Complaints*, CFPB (Aug. 30, 2016), <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-monthly-complaints-snapshot-spotlights-bank-account-and-service-complaints/> [<http://perma.cc/C89C-G3DF>].

51. Scott Pluta, *Making Consumer Complaints Available to the Public*, CFPB Blog (June 19, 2012), <http://www.consumerfinance.gov/about-us/blog/making-consumer-complaints-available-to-the-public/> [<http://perma.cc/8DY6-BK22>].

52. *How We Use the Complaint Data*, *supra* note 42 (overviewing data available publicly and data that remains private).

2015, the CFPB debuted “an enhanced public-facing consumer complaint database,” which added consumers’ accounts of the issues they faced with financial products and service providers,<sup>53</sup> provided that complainants affirmatively assented to their stories being made public.<sup>54</sup> When the CFPB added the narratives to the Database, it reported that 59% of consumers chose to make their stories public.<sup>55</sup> It is these narratives, along with the other information contained in the Database that this article relies on to assess how the CFPB and other agencies may further their missions.

### III

#### READING CONSUMERS’ STORIES

##### A. Who Submits Narratives?

Because the article focuses solely on complaints containing consumers’ narratives it is important to understand the data’s limitations. Most prominently, only people who have problems with the consumer financial products and services that the CFPB takes complaints about and regulates will use the complaint function. In addition, online complainants might differ in key ways from all people who use these specific financial products and services. Such differences are especially likely because, pursuant to its authorizing legislation, the CFPB has established outreach programs to certain population subsets: military service members, people over the age of sixty-two, and students.<sup>56</sup> Certain other groups, such as people with higher incomes, may have better access to or ability to use the Internet.<sup>57</sup> My dataset thus is restricted to people with Internet access and proficiency in using the web form. Similarly, those consumers who opt in to making their narratives public may differ from other consumers who lodge complaints. Other scholars’ observations about these online complainants provide some clues about who shares their stories.

Before narratives were available on the Database, Littwin assessed complainants’ demographic composition. Using zip codes published in the Database to associate demographic information with complainants via the Census Zip Code Tabulation Areas,<sup>58</sup> she concluded that complainants appear to

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53. *CFPB Publishes Over 7,700 Consumer Complaint Narratives About Financial Companies*, *supra* note 9.

54. These narratives similarly are scrubbed of complainants’ personal information. Scott Pluta, *Today We Begin to Share the Story of Your Complaints*, CFPB BLOG (June 25, 2015), <http://www.consumerfinance.gov/about-us/blog/today-we-begin-to-share-the-story-of-your-complaints/> [<http://perma.cc/PQ73-FK6V>].

55. *Id.*

56. *See* Ayres et al., *supra* note 21, at 359 (noting to which groups the CFPB is required to provide targeted assistance).

57. According to Pew Research Center’s survey, as of January 2014, eighty-four percent of American adults used the Internet. *Internet/Broadband Fact Sheet*, PEW RES. CTR., <http://www.pewinternet.org/fact-sheet/internet-broadband/> [<http://perma.cc/579C-J6DA>] (last visited Nov. 28, 2016).

58. Littwin, *supra* note 4, at 908–09.



have higher income and higher education levels than the general population.<sup>59</sup> Given that low-income, less-educated consumers may have trouble accessing legal services and thus be drawn to use the complaint mechanism to seek help, one might expect the median income and average education level of complainants to be lower than the general population.<sup>60</sup> Littwin also found that African-Americans appeared to use the complaint function at a slightly higher rate than their proportion of the general population, while Latinos did so at a rate representative of their population proportion.<sup>61</sup> Given that ethnic and racial minority groups face discrimination across a range of financial products, they may be more likely to experience problems,<sup>62</sup> and thus would be more likely to file complaints.<sup>63</sup> However, lower-income individuals may have fewer opportunities to access the Internet, which partially may explain why complainants have a slightly higher median income than the general population.<sup>64</sup>

Using a similarly sized set of complaints, Ayres, Lingwall, and Steinway also assessed complainants' demographics, focusing on race and income, but also concentrating on groups targeted for CFPB outreach: military service members, people over the age of sixty-two, and students.<sup>65</sup> After controlling for fixed effects, they found that complaint rates were higher in zip codes with higher percentages of African-Americans, Latinos, and seniors among the general population.<sup>66</sup> This accords with Littwin's finding that African-Americans submit complaints more often than their incidence in the population would predict.<sup>67</sup> Ayres, Lingwall, and Steinway also found that the complaint rate overall fell as the median income of a zip code rose, but rose with the median income of African-American and Latino residents.<sup>68</sup> This result suggests that though the CFPB is reaching one part of the population it seeks to connect with—minorities—only a particular subset of minorities are using the complaint function.

Taken together, the results further suggest that lower-income individuals—the very population that might have the most issues with financial products and service providers—are less likely to submit complaints. This impacts the insights that one may glean from the narratives. Despite these limitations, the Database remains the most comprehensive collection of people's stories about their experiences with consumer credit and banking products and services. Indeed, establishing a centralized agency for people experiencing such problems was a

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59. *Id.* at 910.

60. *Id.*

61. *Id.*

62. See Pamela Foohey, *Lender Discrimination, Black Churches, and Bankruptcy*, 50 HOUS. L. REV. (forthcoming 2017) (detailing why African-Americans pay more for credit and consumer goods).

63. Littwin, *supra* note 4, at 910.

64. *Id.* at 911.

65. Ayres et al., *supra* note 21, at 359; see also *supra* text accompanying note 56.

66. Ayres et al., *supra* note 21, at 364.

67. See *supra* note 61 and accompanying text.

68. Ayres et al., *supra* note 21, at 364.

significant achievement in advancing consumers' ability to contact the federal government about their issues.<sup>69</sup> The Database's narratives thus provide one of the best opportunities to explore people's thoughts about their problems with consumer credit and financial services, and the CFPB's perceived role in policing those problems.

## B. Determining What People Are Saying

### 1. Sampling the Narratives

When the CFPB first made narratives available to the public on June 25, 2015, the Database contained over 7,700 narratives dating back to complaints submitted on March 19, 2015.<sup>70</sup> As of April 30, 2016, the end date for the article's data analysis, the Database contained almost 70,000 complaints with narratives.<sup>71</sup> This article relies on a random sample of the approximately 63,280 narratives submitted by consumers in the one-year period between May 1, 2015, and April 30, 2016.

The decision to use a one-year period was one of convenience and scope: over the course of a year, consumers are likely to lodge complaints about a range of products, particularly considering the rapid pace at which the consumer credit and financial services industry changes.<sup>72</sup> Because I wanted to read consumers' narratives firsthand, I chose to take a random sample of 500 of the complaints with narratives submitted each month during that year. The result was a sample consisting of 6,000 complaints with narratives. Though the quantity of narratives remained rather large, given that the consumers complain based on specific products and services, the sample needed to be large enough that it included narratives about a range of products and services, some of which may have only emerged during the sample timeframe.

Table 1 overviews the percentage of complaint narratives in the sample based on product. Given that consumers submit complaints based on product and subproduct categories, the Table combines product and subproduct to create seventeen categories. Although consumers may indicate subproducts for most of the product categories, the Table generally combines all complaints about subproducts into the product category. Because debt collection relates to specific products, the Table divides those complaints by sub-categories based on product category.<sup>73</sup> And because subprime auto lending has received significant media

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69. See Porter, *supra* note 7, at 59 (detailing the "fractured regulatory authority" over financial products and services prior to the CFPB's establishment).

70. See *CFPB Publishes Over 7,700 Consumer Complaint Narratives About Financial Companies*, *supra* note 9; *Consumer Complaint Database*, *supra* note 46.

71. *Consumer Complaint Database*, *supra* note 46.

72. People also may use some products cyclically, such as using payday loans during the holidays. See PEW CHARITABLE TRS., *PAYDAY LENDING IN AMERICA: WHO BORROWS, WHERE THEY BORROW, AND WHY* 14 (2012); *Payday Loans Weigh Down Holiday Borrowers*, PEW CHARITABLE TRS. (Dec. 10, 2015), <http://www.pewtrusts.org/en/multimedia/data-visualizations/2012/payday-loans-really-add-up> [<http://perma.cc/3TG8-EC3S>].

73. Many consumers did not indicate a subcategory when they submitted a complaint about debt

attention of late, complaints about auto loans are reported as a separate category.<sup>74</sup>

**Table 1. Complaint Narratives in Sample, by Product**

Table 1 summarizes the percentage of complaint narratives in the sample based on product. With the exception of debt collection and consumer auto loans, products and their subproducts categories were combined to create categories. This combination yielded seventeen categories.

Product	N	%
Debt collection - generally	841	14.0%
Debt collection - credit card	311	5.2%
Debt collection - medical	277	4.6%
Debt collection - payday loan	79	1.3%
Debt collection - student loan	50	0.8%
Debt collection - auto	38	0.6%
Mortgage	1,329	22.2%
Credit reporting	1,119	18.7%
Credit card	759	12.7%
Bank account or service	512	8.5%
Consumer loan - auto	216	3.6%
Consumer loan - generally	120	2.0%
Student loan	159	2.7%
Prepaid card	73	1.2%
Payday loan	57	1.0%
Money transfer	55	0.9%
Other	5	0.1%
<b>TOTAL</b>	<b>6,000</b>	<b>100.0%</b>

collection, instead checking “I do not know,” which resulted in the large percentage of complaints labeled, “debt collection – generally.”

74. See, e.g., Tracy Alloway, *This Is What's Going on Beneath the Subprime Auto-Loan Turmoil*, BLOOMBERG (Mar. 21, 2016, 10:23 AM), <http://www.bloomberg.com/news/articles/2016-03-21/this-is-what-s-going-on-beneath-the-subprime-auto-loan-turmoil> [<http://perma.cc/WX9B-LTNV>]; Annamaria Andriotis, *Subprime Auto-Loan Loss Expectations Rise*, WALL ST. J. (July 12, 2016, 12:43 PM), <http://www.wsj.com/articles/subprime-auto-loan-loss-expectations-rise-1468341801> [<http://perma.cc/VQ8S-PF87>]; Inae Oh, *John Oliver Takes on the Predatory World of Subprime Car Loans*, MOTHER JONES (Aug. 15, 2016, 7:28 AM), <http://www.motherjones.com/media/2016/08/john-oliver-auto-lending-suprime-loans> [<https://perma.cc/EAD6-PKPP>].

To compare the percentages of narratives in the sample based on product to overall percentage of complaints submitted by product type, Table 2 reproduces information the CFPB published in its most recent annual report detailing the volume of complaints it received in 2014 and 2015.<sup>75</sup> Consumers complained most frequently about debt collection in both 2014 and 2015, consistent with the random sample of narratives. Focusing on complaint data from 2015, the percentage of narratives regarding debt collection is five percent lower than the overall percentage of complaints about debt collection. This difference is counterbalanced by narratives about credit cards: the percentage of these narratives is five percent higher than the overall percentage of complaints about credit cards. Although less notable, the sample of narratives contains slightly more complaints about mortgages, and slightly fewer complaints about credit reporting and payday loans.

**Table 2. Complaint Narratives in Sample Compared to Complaint Volume, 2014 and 2015, as Reported by the CFPB, by Product**

Table 2 compares information published by the CFPB in its 2015 annual report detailing the volume of complaints it received in 2014 and 2015 to the percentages of narratives in the sample based on product.

Product	Sample	2014	2015
Debt collection	26.6%	35%	31%
Credit reporting	18.7%	18%	20%
Mortgage	22.2%	20%	19%
Bank account or service	8.5%	8%	8%
Credit card	12.7%	7%	8%
Consumer loan	5.6%	4%	5%
Student loan	2.7%	3%	3%
Payday loan	1.0%	2%	2%
Prepaid card	1.2%	0.3%	1%
Money transfer	0.9%	0.8%	0.9%
Other financial service	0.1%	0.2%	0.7%

With the exception of debt collection and credit cards, the sample includes narratives that deal with products generally reflecting the breakdown of products complained about by all consumers who submit complaints. It is unclear why fewer consumers who complain about debt collection write or opt to publish their narratives, and likewise, why more consumers who complain about credit cards

75. CFPB, CONSUMER RESPONSE ANNUAL REPORT 7 (2016). The percentages are taken directly from Figure 3 of the report. Those percentages do not total to one hundred percent.

write or opt to publish their narratives. But these disparities are important reminders that the consumers who allow their narratives to be published may have different characteristics.

## 2. Coding the Narratives

Multiple empirical methods exist to analyze these narratives, including quantitative and qualitative content analysis.<sup>76</sup> For this article, I chose to use qualitative content analysis by way of a coding frame.<sup>77</sup> Given the article's focus on people's lived experiences of money problems and how they interact with financial service providers and the CFPB through the complaint mechanism, I created a primary coding frame based on the major emotions expressed in each narrative.<sup>78</sup> The role of emotion in law is an emerging field of study, and its insights are particularly applicable to understanding how people are using the CFPB's complaint mechanism.<sup>79</sup> As "engagements with the world,"<sup>80</sup> emotions provide a useful initial avenue to gauge how people voice their problems, which advances the goal of exploring the complaint process's expressive role.<sup>81</sup>

Psychologists generally identify eight basic emotions: anger, anticipation, disgust, fear, joy, sadness, surprise, and trust.<sup>82</sup> Literature further expands on these eight emotions to include several other major emotions, such as envy, grief, guilt, hope, and shame.<sup>83</sup> Drawing from these lists of emotions, because people

76. See generally KLAUS KRIPPENDORFF, *CONTENT ANALYSIS: AN INTRODUCTION TO ITS METHODOLOGY* 82–87 (3d ed. 2013) (overviewing the components of content analysis, including sampling, coding, and data languages); Rumen Iliev et al., *Automated Text Analysis in Psychology: Methods, Applications, and Future Developments*, 7 *LANGUAGE & COGNITION* 265 (2015) (describing automated text analysis methods for measuring psychological and demographic properties).

77. See KRIPPENDORFF, *supra* note 76, at 126–49 (discussing coding); JOHNNY SALDAÑA, *THE CODING MANUAL FOR QUALITATIVE RESEARCHERS 2* (2d ed. 2013) (noting that "[c]oding is just *one* way of analyzing qualitative data, not *the* way"); MARGRIT SCHREIER, *QUALITATIVE CONTENT ANALYSIS IN PRACTICE* 58–63 (2012) (overviewing coding frames).

78. See SALDAÑA, *supra* note 77, at 3 (defining a "code" as "a word or short phrase that symbolically assigns a summative, salient, essence-capturing, and/or evocative attribute for a portion of language-based or visual data"); SCHREIER, *supra* note 77, at 59 ("The main categories (also called 'dimensions') of your coding frame are the aspects on which you want to focus your analysis.").

79. See *THE PASSIONS OF LAW* (Susan A. Bandes ed., 1999); Susan A. Bandes & Jeremy A. Blumenthal, *Emotion and the Law*, 8 *ANN. REV. L. & SOC. SCI.* 161 (2012).

80. Robert C. Solomon, *Emotions, Thoughts, and Feelings: Emotions as Engagements with the World*, in *THINKING ABOUT FEELING: CONTEMPORARY PHILOSOPHERS ON EMOTIONS* 76 (Robert C. Solomon ed., 2004); see also ROBERT C. SOLOMON, *THE PASSIONS: EMOTIONS AND THE MEANING OF LIFE* (1993) (conceptualizing emotions' connection to society); Dacher Keltner & Jennifer S. Lerner, *Emotion*, in *THE HANDBOOK OF SOCIAL PSYCHOLOGY* 317 (Daniel Gilbert et al. eds., 5th ed. 2010) (discussing how emotions are social).

81. See *supra* notes 24–25 and accompanying text.

82. See Robert Plutchik, *The Nature of Emotions*, 89 *AM. SCIENTIST* 344, 348–50 (2001) (providing a model of these emotions).

83. See RICHARD S. LAZARUS, *EMOTION AND ADAPTATION* 217–82 (1991) (overviewing these major emotions individually: anger, fright, anxiety, guilt, shame, sadness, envy, jealousy, disgust, happiness, pride, love, and relief); Dan M. Kahan & Martha C. Nussbaum, *Two Conceptions of Emotion in Criminal Law*, 96 *COLUM. L. REV.* 269, 276 (1996) (footnote omitted) ("The major emotions include joy, grief, fear, anger, hatred, pity or compassion, envy, jealousy, hope, guilt, gratitude, disgust, and love.").

possibly are raising justiciable issues, the article focuses on six emotions that I predicted would have the greatest potential—individually or jointly—to motivate people to publicly voice their grievances: anger, disgust, sadness, fear, shame, and guilt. I also created a variable for an emotion of frustration, which I reasoned may be a precursor to or continuing fuel for these emotions, particularly anger, and which would allow for an analysis of the intersection of emotions.<sup>84</sup> Frustration typically occurs when people are prevented from reaching a particular desired outcome or goal.<sup>85</sup> It can lead to people feeling significantly hurt or insulted, resulting in anger.<sup>86</sup>

Anger in turn can motivate people to act to reinforce what they believe is appropriate behavior and to save face to “establish[] one’s identity as a strong and determined person who demands respect and does not tolerate unjust treatment by others.”<sup>87</sup> Frustration likewise may intertwine with complainants’ sadness about their financial predicaments, along with fear of what might happen in the immediate future. Sadness includes feelings of irrevocable loss, despair, disappointment, sorrow, and helplessness.<sup>88</sup> As “a step toward resignation,”<sup>89</sup> sadness occurs when a person believes there is nothing left to be done, and thereby contrasts with anger, which impels a person into action.<sup>90</sup> Fear stems from worry about imminent harm, such as death or injury.<sup>91</sup> It is an acute emotion triggered by an external source of danger, which, similar to anger, causes a person to act to avoid a threat—rather than to attack.<sup>92</sup>

Frustration also may relate to complainants’ disgust for the companies with which they are having problems. Disgust arises when people confront something revolting, such as other people violating a social or moral code.<sup>93</sup> Given its

84. See Jiyoung Park et al., *Social Status and Anger Expression: The Cultural Moderation Hypothesis*, 13 *EMOTION* 1122, 1123 (2013) (“Much prior work has formulated frustration as an antecedent to experiences of anger as well as its expression (e.g., aggression) that accompanies such experiences.”).

85. See *id.* (“When the pursuit of personal goals is blocked, it will likely fuel frustration . . .”).

86. See LAZARUS, *supra* note 83, at 217–34 (overviewing anger); *supra* note 84 and accompanying text.

87. Dale T. Miller, *Disrespect and the Experience of Injustice*, 52 *ANN. REV. PSYCHOL.* 527, 540–41 (2001); see also Jennifer S. Lerner et al., *Emotion and Decision Making*, 66 *ANN. REV. PSYCHOL.* 799, 808 (2015) (discussing how anger shapes decisionmaking).

88. See LAZARUS, *supra* note 83, at 248–49 (overviewing sadness).

89. *Id.* at 247.

90. See *id.* at 248 (“If the loss is not considered irrevocable, then anger, anxiety, guilt, shame, envy or hope, which are associated with possibilities of restorative actions, are more likely to be the emotional reactions.”).

91. See *id.* at 235 (emphasis omitted) (discussing fear and contrasting it with anxiety, which though focused on future harm, arises from “uncertain, existential threat,” not immediate danger); Mary C. Lamia, *The Complexity of Fear*, *PSYCHOL. TODAY* (Dec. 15, 2011), <https://www.psychologytoday.com/blog/intense-emotions-and-strong-feelings/201112/the-complexity-fear> [<https://perma.cc/Z7MX-CSL8>] (“Fear is generally considered a reaction to something immediate that threatens your security or safety . . .”).

92. See LAZARUS, *supra* note 83, at 237–38 (emphasis omitted) (overviewing the “coping potential” and “action tendencies” associated with fear).

93. This type of disgust is called sociomoral disgust, as distinguished from the core emotion of

primary orientation towards others, disgust is viewed as an “other-condemning,” rather than a “self-conscious” emotion.<sup>94</sup> Even so, people also may feel disgust for themselves if they think that they violated a social or moral code.<sup>95</sup> In this way, disgust may intersect with shame and guilt.

People who feel shame evaluate themselves overall as failures.<sup>96</sup> Relatedly, but in contrast, people feel guilt when they think that they have failed in specific actions or behavior. For example, shame focuses on the person—“*I did that horrible thing,*” and guilt focuses on the action—“*I did that horrible thing.*”<sup>97</sup> If people complain about difficulties paying back debts and maintaining their credit scores, both of which are social and moral goods, language evidencing shame and guilt may be present in their narratives.

Having identified these seven emotions, the next step was to ascertain in which narratives they were present. Given that coding the narratives could be subjective and require judgment calls, I provided inter-coder reliability by reading each narrative myself, and also assigning each to one of two research assistants.<sup>98</sup> I met with each research assistant to discuss the literature about the meaning of each emotion summarized above. When coding, we also relied on words synonymous for the identified emotions.<sup>99</sup>

Only when both readers agreed that a narrative’s language evinced a particular emotion was that emotion coded. In most instances, both readers agreed on the coding. This likely is because many of the narratives included language that suggested a particular emotional response. Part IV’s discussion of the emotions evident in the complaints’ language provides examples of language showing each of the seven emotions.

In addition to these seven emotions, I created four other variables to evaluate how people engage with the CFPB via the narratives.<sup>100</sup> Three variables assess whether the consumer was directing the complaint to the company or the CFPB. Because consumers’ complaints are forwarded to companies for resolution, one variable identifies language suggesting that the consumer was directly addressing

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disgust that relates to food and taste. See WILLIAM IAN MILLER, *THE ANATOMY OF DISGUST* 1–2 (1997) (noting that “disgust starts with . . . the rejection of food,” but that disgust also “is a moral and social sentiment”).

94. See Jonathan Haidt, *The Moral Emotions*, in *HANDBOOK OF AFFECTIVE SCIENCES* 852, 855, 859 (R.J. Davidson et al. eds., 2003).

95. MILLER, *supra* note 93, at 34 (including disgust “in the syndrome of self-loathing”).

96. See Raffaele Rodogno, *Shame, Guilt, and Punishment*, 28 *LAW & PHIL.* 429, 432–33 (2009) (distinguishing shame and guilt); Fabrice Teroni & Julien A. Deonna, *Differentiating Shame From Guilt*, 17 *CONSCIOUSNESS & COGNITION* 725, 727 (2008) (defining shame).

97. This example draws from HELEN BLOCK LEWIS, *SHAME AND GUILT IN NEUROSI* 30 (1971).

98. After training each of the research assistants, I divided the narratives equally between them.

99. For quantitative content analysis, “emotion dictionaries,” such as the Linguistic Inquiry and Word Count (LIWC) program, can be used. See *How It Works*, LIWC, <http://liwc.wpengine.com/how-it-works/> [<https://perma.cc/B7MV-27KT>] (last visited Nov. 28, 2016). For this article’s qualitative analysis, we relied on thesauruses.

100. I also included a variable for all instances in which the narrative mentioned bankruptcy. This variable is not pertinent to this article’s analysis. As described below, these variables, particularly the discussion of law, were more easily assessed.

the company through the narrative.<sup>101</sup> This included phrases such as, “[t]hank you for your attention to this matter,”<sup>102</sup> “[p]lease send copy of original note signed to me verifying date,”<sup>103</sup> and “[p]lease remove” in the context of a purportedly incorrect debt collection.<sup>104</sup>

Correspondingly, because consumers might not understand that it is the company, not the CFPB, who responds to their complaints, another variable identifies language suggesting that the consumer was directly addressing the CFPB about the particular complaints’ resolution. This included phrases such as, “PLEASE HELP!!”<sup>105</sup> or “we need assistance,”<sup>106</sup> which people often combined with “I don’t know what else to do” or similar phrases.<sup>107</sup> To contrast, another variable identifies language suggesting that the consumer understood the CFPB’s functions as an enforcement and regulatory agency, and as the aggregator of complaints in a place that other consumers can access. This included consumers’ suggestions that the CFPB investigate a practice or company further, but separate and apart from the consumers’ particular complaint, and the hope that other people may be warned about a practice or company through the complaint.<sup>108</sup>

The final variable assesses whether consumers discussed law in their complaints. The complaint function may serve as a litigation substitute for people who do not have the time or resources to bring legal actions,<sup>109</sup> and thus may signal that complainants understand the role of the company and the CFPB in processing complaints. This variable identifies all instances in which the narratives discussed a seemingly relevant law, even if it was not actually applicable to the consumer’s issue. When combined with language asking for assistance from the company, this variable may show how consumers use the complaint function to assertively attempt to resolve their legal problems. This in turn may connect with how people experience and characterize their issues with

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101. See *supra* note 34 and accompanying text.

102. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1383695*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

103. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1379809*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

104. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1393468*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

105. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1408019*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

106. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1883508*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

107. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1416193*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017) (“Please help me I don’t know what else to do I have tried everything in my power, I need your help!!”).

108. See *infra* Part IV for examples of such language.

109. Porter, *supra* note 7, at 77–79.



financial products and service providers, which is where the analysis of the narratives begins.

#### IV

#### ANGRY, SAD, SCARED, AND VERY FRUSTRATED

Consumer credit and financial services is a rapidly changing industry that the CFPB has repeatedly scrutinized for its propensity to take advantage of customers by violating consumer financial protection and other laws.<sup>110</sup> In the CFPB's latest semi-annual report, it detailed how its activity in the six-month period between October 1, 2015, and March 31, 2016, resulted in financial institutions providing \$82 million in total relief to consumers.<sup>111</sup> Consumers' stories illustrate the potential need for some of the CFPB's enforcement actions, and also show how people are thinking about the impact of money issues on their lives.

One recent enforcement action provides a useful example of how consumers express most of the seven emotions coded via their narratives. In May 2015 the CFPB entered into a final order with PayPal regarding its online credit product PayPal Credit—formerly Bill Me Later—whereby PayPal paid \$15 million in consumer redress and a \$10 million penalty.<sup>112</sup> The CFPB alleged that PayPal

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110. A recent notable example is the \$185 million in fines and penalties that the CFPB and other regulators levied on Wells Fargo for opening about 2.1 million deposit and credit card accounts without customers' approval. See *Consumer Financial Protection Bureau Fines Wells Fargo \$100 Million for Widespread Illegal Practice of Secretly Opening Unauthorized Accounts*, CFPB (Sept. 8, 2016), <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-fines-wells-fargo-100-million-widespread-illegal-practice-secretly-opening-unauthorized-accounts/> [https://perma.cc/HJ3N-6D5X]; Matt Levine, *Wells Fargo Opened a Couple Million Fake Accounts*, BLOOMBERG (Sept. 9, 2016, 6:30 AM), <https://www.bloomberg.com/view/articles/2016-09-09/wells-fargo-opened-a-couple-million-fake-accounts> [https://perma.cc/D2WV-H383]. When dozens of Wells Fargo's customers sued to recover fees they were charged from these fake accounts, Wells Fargo asked the federal district court to order the customers to resolve their disputes through arbitration pursuant to mandatory arbitration clauses. *Wells Fargo Asks Court to Force Customers to Arbitration in Fake Accounts Cases*, N.Y. TIMES (Nov. 24, 2016), <https://www.nytimes.com/2016/11/24/business/wells-fargo-asks-court-to-force-customers-to-arbitration-in-fake-accounts-cases.html> [https://perma.cc/YK78-PFCD]. At the time, the CFPB already had proposed a rule to prohibit banks from including similar forced arbitration clauses in contracts for checking accounts and credit cards. *CFPB Proposes Prohibiting Mandatory Arbitration Clauses that Deny Groups of Consumers their Day in Court*, CFPB (May 5, 2016), <http://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-proposes-prohibiting-mandatory-arbitration-clauses-deny-groups-consumers-their-day-court/> [https://perma.cc/QG4D-2G4K]. See also David L. Noll, *The CFPB's Arbitration Rule: The Road Ahead* (Nov. 23, 2016) (unpublished manuscript), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2873866](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2873866) [https://perma.cc/2AEG-WWBQ] (discussing the future of the CFPB's arbitration rule in light of the 2016 presidential election). And at the end of November 2016, the CFPB issued a bulletin compiling guidance about mitigating risks to consumers inherent in consumer financial product and service providers' incentive programs that link compensation and employment with sales, customer call quotas, and other benchmarks. *Detecting and Preventing Consumer Harm from Production Incentives*, CFPB (Nov. 28, 2016), <http://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/cfpb-compliance-bulletin-2016-03-detecting-and-preventing-consumer-harm-from-production-incentives/> [https://perma.cc/KUG8-4VT5].

111. SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU SPRING 2016, *supra* note 42, at 1.

112. *Id.* at 101; see also Carter Dougherty, *PayPal Will Pay \$25 Million to Resolve CFPB Bill Me*

“signed consumers up for credit without their permission, [and] made them use PayPal Credit instead of their preferred payment method.”<sup>113</sup>

In reaction to PayPal’s scheme, one consumer wrote: “I feel like I’ve been cheated because I didn’t sign up for this and the high interest rate.”<sup>114</sup> Another consumer explicitly used the word frustration: “I was confused, frustrated, stressed, and upset, and at the time I did not know that I had any recourse” against PayPal’s setting of “their Credit service as the default payment option without my permission.”<sup>115</sup> In some narratives, consumers’ frustration rose to the level of identifiable anger as demonstrated through the use of capital letters, such as: “I NEVER received ANY statements or cards in the mail. I NEVER got any calls before last week. I WAS NOT AWARE of any PayPal Credit account being opened NOR did I apply for one.”<sup>116</sup> Another consumer’s anger extended to the effects of PayPal’s scheme on that individual’s broader financial life: “I am really upset because I did not want a line of credit from PayPal. This has now gone against my credit and it really made me mad and confused.”<sup>117</sup>

Other narratives directly expressed sadness about PayPal and the effects of its tactics, such as: “[T]his huge corporation . . . has gone from a caring consumer driven company to an unethical money hungry company who could care less if they lose one little peon like me. Saddened and still in the Negative.”<sup>118</sup> Narratives discussing PayPal also showed consumer’s fear about the effects of PayPal’s tactics, such as this self-identified senior citizen’s frustration in trying to recover money: “It has been simply impossible to get through to a live person or get any kind of response from this company. I am a senior citizen and need my [\$300.00] back! HELP!!”<sup>119</sup>

Finally, narratives’ language sometimes expressed more than one emotion, such as this consumers’ frustration, sadness, shame, and guilt:

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*Later Claims*, BLOOMBERG (May 19, 2015, 11:50 AM), <http://www.bloomberg.com/news/articles/2015-05-19/paypal-will-pay-25-million-to-resolve-cfpb-bill-me-later-claims> [<https://perma.cc/manage/create>].

113. SEMI-ANNUAL REPORT OF THE CONSUMER FINANCIAL PROTECTION BUREAU, *supra* note 42, at 101.

114. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1784558*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

115. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1387170*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

116. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1735085*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

117. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1724121*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

118. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1389338*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

119. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1604068*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

They keep calling them numerous times a day and it has my parents and me very very upset in this already difficult time. I just want them to stop calling and harassing my family that is incapable of helping anyways and giving out my personal account information without any permission. I will pay off my balance it is just going to take me some time which I do apologize for.<sup>120</sup>

As shown in the narrative's last sentence, consumers' feelings of guilt usually manifested as assertions that the consumer would pay back when possible in the future—guilt for the act of not living up to the obligation in a timely fashion. Shame manifested through apologies for not paying on time, not understanding the terms of the deal, or for feeling embarrassed—shame for personally being unable to fulfill one's end of the transaction in one way or another.<sup>121</sup>

Consistent with narratives about PayPal's scheme, as summarized in Table 3, most narratives that included emotional language evidenced frustration, anger, sadness, or fear. Frustration was the most pervasive. This makes sense in light of the complaint function's purpose: allowing consumers to voice concerns that companies likely have left unanswered and possibly getting answers and redress. Few narratives' language rose to the level of guilt, shame, and disgust.<sup>122</sup> As such, the remainder of the article's discussion focuses on frustration, anger, sadness, and fear. Importantly, forty-six percent of the narratives did not include language expressing any of these seven emotions. These narratives most typically recounted the series of events that motivated the consumer to submit the complaint.

**Table 3. Complaint Narratives in Sample, by Emotion**

Table 3 summarizes the percentage of narratives in the sample with language evidencing each of the seven coded emotions. Some narratives included language showing more than one emotion. 46% of the narratives did not include any emotional language.

Emotion	% of Sampled	
	N	Narratives
Frustration	2183	36.4%
Anger	337	5.6%
Sadness	604	10.1%
Fear	356	5.9%
Disgust	26	0.4%
Shame	84	1.4%
Guilt	42	0.7%

120. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1822894*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

121. See *supra* notes 96, 97 and accompanying text for the distinction between guilt and shame.

122. When expressing disgust, people typically wrote variations of the words disgust and obscene.

In addition, consistent with the narratives about PayPal's scheme, some narratives contained language evidencing more than one emotion. Of narratives with emotional language, 20% contained two emotions, 3% contained three emotions, and less than 1% contained four emotions. Because frustration pervaded the narratives, it most often appeared alongside other emotions, particularly sadness and fear. About half of the narratives with language evincing sadness also expressed frustration.<sup>123</sup> Likewise, half of the narratives with language displaying fear also communicated frustration.<sup>124</sup> Sadness and fear were the two other emotions most likely to appear together: Almost 20% of the narratives containing sadness language also included fearful language.<sup>125</sup>

These percentages of emotional language should not be considered in isolation. Rather, they allow for a more nuanced exploration of consumers' issues, including how complainants link their problems to legal violations and the CFPB's role. Stated somewhat differently, the coding frame provides heuristics for how consumers use the complaint function and its narrative feature.<sup>126</sup> Though frustration pervades the narratives, frustration rising to the level of anger stands alone, while sadness and fear are linked. This reveals two primary ways in which people are engaging with the complaint mechanism.

First, narratives with language that rose to the level of anger, or expressed frustration alone, most often voiced people's specific concerns about how the targeted company treated them. These narratives included words such as "furious," "ridiculous," "rude," "abusive," "aggressive," "condescending," "deceitful," "deceptive," "disrespectful," "crooks," and "incompetent," and phrases like, "they screwed me,"<sup>127</sup> "this is criminal,"<sup>128</sup> and "I'm LIVID."<sup>129</sup> Through such evocative language, people engaged directly with companies' practices, a use of the narrative feature that is aligned with the complaint mechanism's purposes.

Second, in contrast, when people expressed sadness and fear in their complaints, they largely told stories about how credit issues and financial services disputes decreased their personal well-being and harmed loved ones. Expressions of sadness centered on worry, stress, grief, sleepless nights, questioning the consumer's worthiness, perceptions of being discriminated against, not knowing

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123. 48.7% of the narratives expressing sadness also expressed frustration.

124. 49.2% of the narratives expressing fear also expressed frustration.

125. 112 of the narratives expressed sadness and fear.

126. See SALDAÑA, *supra* note 77, at 8–9 (discussing a "Second Cycle" of coding in terms of identifying heuristics).

127. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1654226*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ny-je5y> (last visited Feb. 20, 2017).

128. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1664049*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ny-je5y> (last visited Feb. 20, 2017).

129. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1634554*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ny-je5y> (last visited Feb. 20, 2017).

what to do next, and, most often, concerns about an inability to provide for families. For instance, one consumer wrote: “I am depressed, sick because of the [company]. I have trouble sleeping every day.”<sup>130</sup> Another’s concerns involved an inability to pay for necessities: “I don’t know what to do anymore. . . . [I]f I continue on with these payments [on my house and car] (which they are garnishing my check for) I won’t ever have any money for other things. I’m between a rock and a hard place.”<sup>131</sup>

People’s sadness often overlapped with fear about their health, effects on sick children or parents, losing family homes, not having a place to live, and not having food. Similar to complainants authoring sad narratives, complainants authoring fearful narratives asserted their worthiness, but they were more likely to mention their vulnerable personal statuses, such as single mothers or fathers, veterans, or seniors. One senior recounted how a debt collector scammed her into paying a debt her granddaughter purportedly owed, although her granddaughter could not recall incurring the debt:

I’m an elderly lady and was very scared for [my granddaughter]. I decided to give him my credit card info because he scared me, and I was worried for the safety of my granddaughter and grand babies. . . . He has damaged my soul, I’m scared that this can happen again and to keep your family from harm you do whatever it takes. It’s sad that people take advantage of others. . . . I’m living on a fixed income and don’t know what to do.<sup>132</sup>

Fear did not always intersect with sadness. When people expressed fear alone, their narratives tended toward panic.<sup>133</sup> For example, one consumer wrote: “I am so desperate I have XXXX children, and I have no food and my light is about to be turned off because I can’t pay because rush card is holding my money.”<sup>134</sup> Another narrative also focused on a child: “I got scared and hung up the phone. Since my daughter has XXXX and XXXX I actually considered loading this girl in the back seat and moving her to a safe location. . . . It’s been a horrific experience.”<sup>135</sup>

130. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1751506*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

131. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1363462*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

132. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1876773*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

133. This aligns with the “action tendencies” associated with fear. *See supra* note 92 and accompanying text.

134. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1613055*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

135. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1697111*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017). The incidences of “XXXXX” in this narrative were inserted by the CFPB to replace information deemed too personal for publication.

Anger's intersection with sadness or fear exposes two distinct ways in which people use the complaint mechanism. About seven percent of sad narratives also evidenced anger, and almost four percent of fearful narratives also expressed anger.<sup>136</sup> This further supports the conclusion that people are engaging with the complaint mechanism in two primary and distinct ways—to express anger and frustration about a company's practices, or to express sadness and fear about how the company's practices impact their emotional and physical well-being.

Breaking down the emotions expressed in the narratives by product categories further shows a dichotomy between anger and frustration alone, and sadness and fear. Although thirty-six percent of all narratives communicated frustration,<sup>137</sup> almost half of complaint narratives about prepaid cards and debt collection in the context of payday loans, student loans, and auto loans contained expressions of frustration.<sup>138</sup> Bank accounts and prepaid cards stood out for provoking anger.<sup>139</sup> Prepaid cards also prompted more sadness and fear,<sup>140</sup> perhaps indicating a particularly universal problem that the CFPB already may have recognized given its recent rulemaking efforts to protect prepaid card account customers.<sup>141</sup>

But prepaid cards are where the similarities between these four emotions end. Issues with mortgages, money transfers, student loans, and auto loans, including debt collection of these loans, were most likely to trigger sadness.<sup>142</sup> Problems with mortgages and payday loans, including debt collection of payday loans, were most likely to trigger fear.<sup>143</sup> The intersection of both sadness and fear with mortgages is particularly noteworthy. Of the sad narratives, forty-one percent

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136. 42 narratives expressed anger and sadness; 14 narratives expressed anger and fear.

137. *See supra* Table 3.

138. 52% of the complaints about prepaid cards, 49% of the complaints about payday loan debt collection, 48% of the complaints about payday loan debt collection, and 53% of the complaints about auto loan debt collection expressed frustration.

139. Though 5.6% of narratives expressed anger, 9.4% of narratives about bank accounts and 8.2% of narratives about prepaid cards expressed anger. *See supra* Table 3.

140. Though 10.1% and 5.9% of narratives expressed sadness and fear, respectively, 13.7% and 12.3% of narratives about prepaid cards expressed sadness and fear, respectively. *See id.*

141. *See CFPB Finalizes Strong Federal Protections for Prepaid Account Consumers*, CFPB (Oct. 5, 2016), <http://www.consumerfinance.gov/about-us/newsroom/cfpb-finalizes-strong-federal-protections-prepaid-account-consumers/> [<https://perma.cc/89PQ-XVZT>] (overviewing the CFPB's recent rule requiring "Know Before You Owe" disclosures for prepaid accounts, among other new protections). The CFPB's most recent monthly report regarding consumer complaints specifically highlighted complaints about prepaid products. The report showed that consumers continued to have problems accessing money and managing their accounts, frustrations that are apparent in the sampled narratives. *See generally* 16 CFPB MONTHLY COMPLAINT REP. 1 (2016); *CFPB Monthly Complaint Snapshot Spotlights Prepaid Product Complaints*, CFPB (Oct. 25, 2016), <http://www.consumerfinance.gov/about-us/newsroom/cfpb-monthly-complaint-snapshot-spotlights-prepaid-product-complaints/> [<https://perma.cc/VN8B-U8LX>].

142. Of the narratives expressing sadness, 19% dealt with mortgages, 15% dealt with money transfers, 22% dealt with student loans, 15% dealt with auto loans, and 16% deal with debt collection of auto loans.

143. Of the narratives expressing fear, 12% dealt with mortgages, 11% dealt with payday loans, and 16% dealt with debt collection of payday loans. Another 10% of the narratives expressing fear dealt with debt collection of student loans.

related to mortgages. Likewise, of the narratives that evidenced fear, forty-four percent related to mortgages. Issues with mortgages understandably provoked anger and frustration, but at markedly different rates: a consistent twenty-five percent of the narratives displaying anger or frustration regarded mortgages.

One theme emerged as uniting the categories of consumer financial products and services that made people sad and fearful. These categories encompass what people need to survive—shelter and cars—and some of the alternative financial services that people reluctantly use in times of need—money transfer outlets and payday loans. Of the financial products and services that the CFPB’s complaint mechanism covers, these are the primary ones to which people turn to maintain a minimum standard of living. When consumers face problems with these companies, their struggles create sadness and fear.<sup>144</sup> As detailed in the next part, complainants’ pleas to the CFPB to personally assist consumers coincide with expressions of sadness and fear. In contrast, complainants’ assertions that companies violated the law and general requests that the CFPB investigate companies’ practices coincide with anger and frustration, further differentiating the narratives.

## V

### ASSERTING LEGAL VIOLATIONS AND ASKING FOR HELP

In addition to telling their stories to companies and the public, this narrative space allows consumers to raise legal claims and to alert the CFPB to illegal or bad behavior on the part of financial products and service providers. Indeed, detailing legal violations may be consumers’ best route to obtain relief from companies. Consumers who lack the time or resources to use formal legal proceedings may turn to the complaint function.<sup>145</sup> Because the CFPB uses consumers’ complaints to guide some of its enforcement actions, allegations of specific legal violations may help it to identify which companies to investigate.<sup>146</sup>

This part explores the intersection of the four salient emotions within CFPB narratives and whether consumers raise legal claims and reference the CFPB in their complaints to assess whether complainants understand the limits of the CFPB complaint process. That a subset of complainants write narratives describing their struggles to survive suggests that some may think that the CFPB can provide more relief than it actually can.<sup>147</sup> The following analysis validates this concern.

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144. See Mechele Dickerson, *Vanishing Financial Freedom*, 61 ALA. L. REV. 1079, 1082 (2010) (footnote omitted) (“Financial freedom, at a minimum, serves to shield people from things they do *not* want, including hunger, homelessness, illnesses, or dangers. Most people would agree that if you fall below a certain minimum level of resources you cease to have financial freedom.”).

145. Forced arbitration provisions also may prevent legal action. See *supra* note 110 and accompanying text.

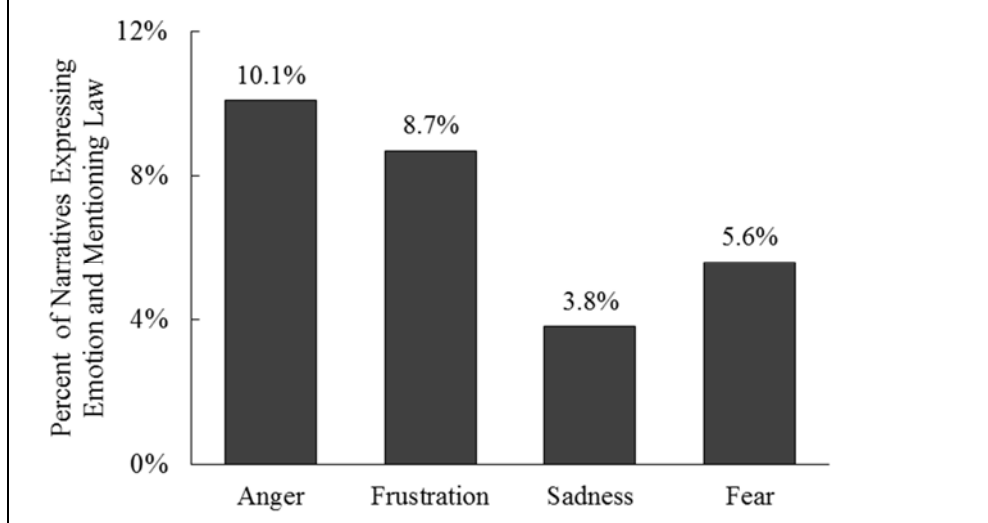
146. See *supra* note 42 and accompanying text.

147. Alternatively, or simultaneously, people may want to show how much they are suffering based on their grievances.

Beginning with consumers' assertion of legal claims, overall, nine percent of the sampled narratives alleged violations of federal and state laws.<sup>148</sup> Chief among laws named were the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, and state statutes of limitations on collecting delinquent debts. Figure 1 summarizes the intersection of complainants' discussions of legal claims and the emotions expressed in their narratives. The percentages displayed are the portion of narratives with language indicating a particular emotion which also referenced legal claims.

**Figure 1. Narratives Expressing Emotions Also Raising Legal Claims**

Figure 1 presents a bar graph of the portion of narratives with language that expresses one of the four main emotions coded that also reference a violation of a specific federal or state law.



Anger and frustration emerge as the emotions that most frequently accompany asserted legal violations.<sup>149</sup> Importantly, fifty-seven percent of the narratives that mentioned laws did not include language indicating the complainant's emotions. These narratives dryly recounted events, cited one or more laws, and sometimes discussed why the events amounted to a legal violation.

Consumers discussed legal claims most often in the context of perceived improper treatment, expressed through language of anger and frustration. Sometimes consumers threatened to bring a suit based on the cited law if their

148. 562 of the sampled narratives asserted a specific legal violation.

149. Dividing the number of narratives that cited law and evidenced a particular emotion by the total number of narratives that cited law yields the same results. Percentage-wise, more narratives that cited law included language of anger and frustration than sadness and fear. Indeed, a third of the narratives that cited law also expressed frustration with the subject company.



issue remained unresolved. This result, combined with the high percentage of narratives that only discuss law, suggests that people are using the complaint function to raise legal claims that they do not want to or cannot bring to court, at least initially. Whether these legal claims are resolved through the complaint process or whether complainants later bring legal actions are open questions that have been previously raised.<sup>150</sup>

The overlap between complainants' assertions of legal claims with requests that companies address these problems further suggests that some consumers use the complaint process to assert legal claims outside of the formal legal system. Almost twenty percent of the narratives in which the complainant included language effectively asking the company directly for redress stated a specific legal violation.<sup>151</sup> To compare, about five percent of the narratives in which the complainant asked the CFPB for help with the particular problem also stated a specific legal violation.<sup>152</sup> In addition, very few narratives that directly addressed the company contained language expressing consumers' emotions.<sup>153</sup>

Those complainants who request the CFPB to investigate the company on behalf of consumers or who otherwise reference its enforcement and regulatory roles necessarily also understand the CFPB's role in the complaint process. A relatively small 2.5% of the narratives contained such language.<sup>154</sup> For instance, a consumer noted, "I filed a complaint with XXXX and the Bureau of Consumer Financial Protection so unwary customers won't get scammed this way."<sup>155</sup> Similarly, returning to the CFPB's enforcement action against PayPal,<sup>156</sup> another consumer wrote: "This is a total scam. You obviously need to send a much stronger message than the simple fine you slapped on them earlier."<sup>157</sup> A third wrote: "I promised [PayPal] that I [would] file this complaint. . . . Please take action against them [PayPal]."<sup>158</sup> Finally, another consumer simply referenced the CFPB's action: "I read on the news last night that many other consumers had experienced the same issue with PayPal, and that the Credit Protection Bureau

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150. Porter, *supra* note 7, at 77–79.

151. 193 (3.2%) narratives included language suggesting that the consumer was engaging with the company through the narrative. 36 of those raised legal claims.

152. A higher 564 (9.4%) narratives asked the CFPB for help with the particular problem. 32 of those raised legal claims.

153. Less than 1% of narratives expressing anger, sadness, and fear, and 2.6% of the narratives expressing frustration also included language directly engaging with the company.

154. 148 of the narratives included language suggesting that the consumer was directing a comment to the CFPB generally.

155. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1838900*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

156. See *supra* notes 112, 113 and accompanying text.

157. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1477907*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

158. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1579119*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

was fining PayPal for this deceitful credit practice. I immediately decided to submit my complaint as well, in hopes of adding the voice of XXXX more consumer that was tricked . . . .”<sup>159</sup>

Narratives referencing the CFPB generally expressed anger and frustration more often than sadness and fear. Over sixty percent of the narratives with such language also expressed anger and frustration with the company or its practices.<sup>160</sup> In contrast, only twenty percent expressed sadness and fear.<sup>161</sup> This result again indicates that people are using the complaint process in two distinct ways. Expressions of anger, frustration, and legal violations are likely indicators that complainants understood the complaint process.

The language that consumers used to raise legal claims and direct the CFPB to hold companies accountable in a broad sense contrasts starkly with the language that they used when asking for help with individual problems. More than nine percent of the surveyed narratives contained language indicating the consumer was directly addressing the CFPB, typically thanking it for its assistance or pleading with it for help.<sup>162</sup> Though this language included phrases such as, “thank you for your time and help,”<sup>163</sup> much more often complainants pleaded desperately for the CFPB’s assistance.

Sadness and fear repeatedly accompany these pleas. For instance, complaints end with language such as: “We need help. Your [sic] our last resort. Thank you.”<sup>164</sup> “I still have no access [to my prepaid card] and they [the company] tell me they don’t either!! Please help!!”<sup>165</sup> “I am so worried that they are illegally trying to foreclose. . . . What they are doing is scandalous. Please help!!!”<sup>166</sup> As a final example, one complaint ended with an acknowledgement of the consumer’s desperation: “I don’t have the money to pay for an attorney to represent me. . . .

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159. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1387170*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

160. 93 of the narratives referencing the CFPB generally also included expressions of anger and/or frustration.

161. 30 of the narratives referencing the CFPB generally also included expressions of sadness and/or fear.

162. 564 of the narratives contained language thanking or asking the CFPB for help with the specific problem.

163. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1778182*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

164. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1802938*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

165. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1642875*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

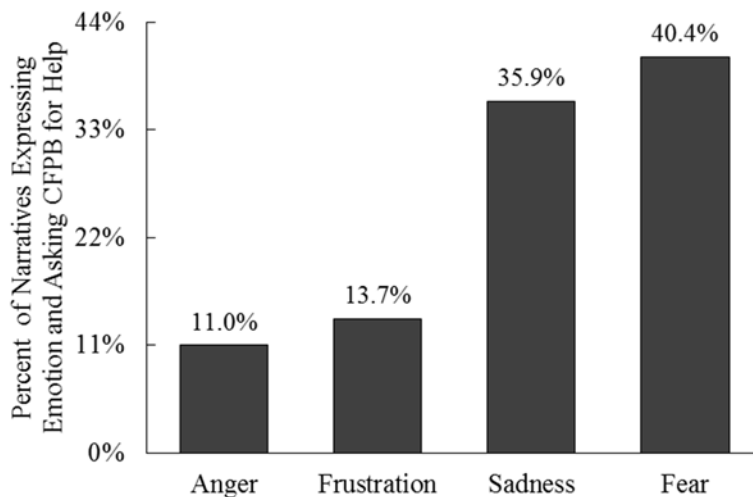
166. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1386530*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

I am afraid it is now too late and I beg you to try your best to get this information for me before my court date. If I sound desperate, I am and I need your help.”<sup>167</sup>

Consistent with these examples, narratives that asked for the CFPB’s help dealing with the consumer’s specific issue were more likely to include expressions of sadness and fear than anger and frustration. Figure 2 depicts the intersection of complainants’ directly addressing the CFPB and the emotions expressed in their narratives. The percentage represents the portion of narratives containing language evincing a particular emotion *and* language requesting help from or thanking the CFPB.

**Figure 2. Narratives with Emotional Language Also Asking the CFPB for Help with Complainant’s Particular Issue**

Figure 2 presents a bar graph of the portion of narratives with language that expresses one of the four main emotions coded that also ask that the CFPB help the complainant with the particular issue discussed in the narrative.



Although nine percent of narratives asking for the CFPB’s help with the complainant’s particular issue may not seem that significant, the percentage must be considered in light of the purpose of the CFPB’s complaint function, how the CFPB processes each complaint, and the total number of complaints lodged. As of September 2016, the CFPB has handled over a million complaints.<sup>168</sup> As such, 90,000 people most likely have asked the CFPB for help with their individual issues.

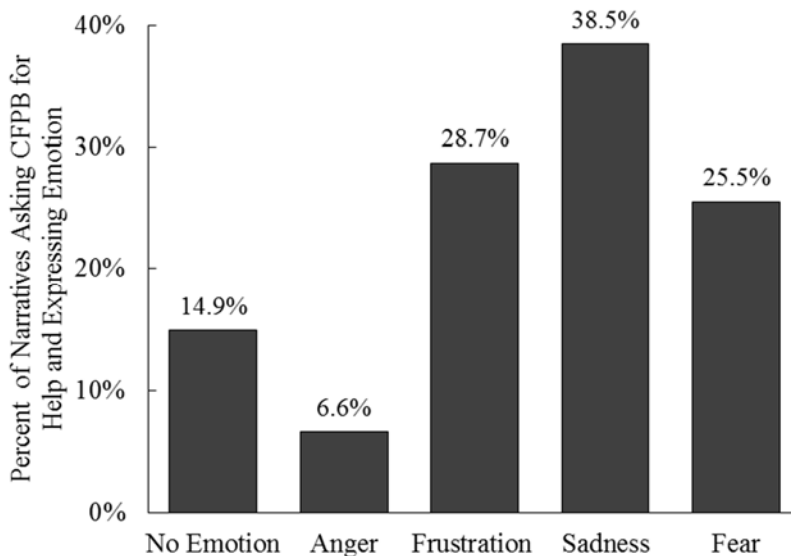
167. *Consumer Complaints with Consumer Complaint Narratives, Complaint ID 1658842*, CFPB, <https://data.consumerfinance.gov/dataset/Consumer-Complaints-with-Consumer-Complaint-Narrat/ns-yy-je5y> (last visited Feb. 20, 2017).

168. See *supra* note 8 and accompanying text.

In addition, most complainants ask for the CFPB's help after expressing anger, frustration, sadness, or fear. As shown in Figure 3, fifteen percent of the narratives that asked for personal help from the CFPB did so without also evincing the consumers' emotions.<sup>169</sup> This result again contrasts with narratives that assert legal claims or refer to the CFPB generally to flag issues or alert other consumers. Recall that a majority of these narratives that raise law do not include any emotional language, and that when these narratives expressed an emotion, it most often was frustration.<sup>170</sup>

**Figure 3. Narratives Asking the CFPB for Help with Complainants' Particular Issue That Also Include Emotional Language**

Figure 3 presents a bar graph of the portion of narratives that ask the CFPB for help with the complainant's particular issue that also include language expressing one of the four main emotions coded. Because frustration often coincides with sadness and fear, the percentage for the incidence of frustration reports those narratives in which the complaint expressed frustration unaccompanied by any other emotion. Because emotions overlap, the percentages add to greater than 100%.



Viewed from this angle, sadness and fear again emerge as the emotions that accompany such pleading language. Frustration also emerges, even when its incidence is disaggregated from other emotions, as reported in Figure 3. That

169. Similar to the previous figure, Figure 3's percentages represent the portion of narratives asking the CFPB for help that also include language evincing a particular emotion.

170. See *supra* note 153 and accompanying text.

frustration appears often is expected given that the complaint function allows consumers to voice concerns that companies have allowed to remain unanswered.

The emergence of sadness and fear in combination with pleas for personal help from the CFPB in such high percentages is concerning. These complainants often tell the CFPB about severe problems affecting their ability to survive. Extrapolating from the sample to the full number of complaints filed, over 57,000 people have written to the CFPB for individual help with problems that make them feel fearful or sad.<sup>171</sup>

If sadness and fear are thought of as stand-ins for how credit and money problems are affecting people's ability to live healthy and productive lives, then it makes sense that people call upon the CFPB for help in these circumstances. Conversely, if anger and frustration are thought of as stand-ins for the initial escalation of the consumer trying to solve a problem by using the complaint function, it makes sense that complainants would not ask the CFPB for help of a personal nature, but rather assert legal claims and, if they mention the CFPB at all, ask the CFPB for general help or simply acknowledge its role. The concern for complainants and the CFPB is that those people who raise life and death issues as part of the complaint process often seek help from the CFPB that it cannot provide, and is not meant to provide. The next part begins by addressing the ramifications of these types of life and death complaints for consumers and the CFPB's efforts to protect consumers.

## VI

### HELP PLEASE! THE CONSEQUENCES OF CALLS FOR ASSISTANCE

The narratives suggest that most consumers use the complaint function and Database in the way broadly envisioned by the CFPB and its enacting statute. They sometimes assert legal claims, less often direct their claims and issues directly to the subject company or reference the CFPB's role as complaint aggregator and "cop on the beat,"<sup>172</sup> and most often express frustration with consumer credit and financial service providers. The benefits of being able to tell their stories should not be discounted, particularly when consumers seem to understand who will handle their complaints and when their narratives will be made publicly available.

People who write about their problems with sadness and fear particularly may take solace in having a space to voice the ramifications of their financial issues on their lives. For them, given their time and resources, lodging a complaint may be the only way they can be heard. Asking the CFPB for help, even if they realize that it may not be forthcoming on an individual basis, may be crucial to their ability to come to terms with what amount to traumatic financial and life circumstances—losing homes, having trouble paying for food, and having to watch their children and parents go without necessities. Indeed, research shows

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171. *See supra* text accompanying note 8.

172. CFPB, BUILDING THE CFPB: A PROGRESS REPORT 5 (2011).

that storytelling can help people deal with stress, loss, and pain, and make sense of what has happened.<sup>173</sup>

For others, even if they do not refer to the CFPB's role as enforcer and regulator directly, they may find comfort in knowing their story may be read by the company, the CFPB, and the broader public. Most consumers who use the complaint function and affirmatively allow publication of their narratives chronicle their problems with financial product and service companies in detail and with impassioned language. Overall, this article's review of the Database narratives' content and language suggests that the complaint mechanism is living up to its expressive role.<sup>174</sup>

Nonetheless, that a portion of the narratives contain direct pleas for help from the CFPB suggests that some complainants are seeking a result they never will receive: direct help from the CFPB with their individual problems. That complainants who personally call on the CFPB for help do so alongside language expressing sadness and fear prompts concerns that these people may continue to suffer and may become disillusioned with the CFPB. As detailed in the conclusion, the CFPB can leverage the database to identify and correct this misperception, thereby addressing these two concerns.

More broadly, and perhaps more importantly given the CFPB's uncertain future,<sup>175</sup> the CFPB is not the only federal or state agency that offers its constituents the opportunity to write narratives describing problems. The Federal Trade Commission takes consumer complaints regarding "scams and rip-offs," identity theft, unfair business practices, and other defined categories.<sup>176</sup> Like the CFPB, the Federal Trade Commission makes clear that it cannot and does not resolve individual consumer complaints.<sup>177</sup> The Department of Justice similarly allows members of the public to report antitrust concerns to its Antitrust Division

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173. See Laurel J. Kiser et al., *Who Are We, but for the Stories We Tell: Family Stories and Healing*, 2 PSYCHOL. TRAUMA 243 (2010) (describing how clinicians encourage families afflicted by trauma to use storytelling as part of their healing process); Melanie Greenberg, *Emotional Story-Telling After Stressful Experiences: A Way to Find Meaning*, PSYCHOL. TODAY (Jan. 31, 2011), <https://www.psychologytoday.com/blog/the-mindful-self-express/201101/emotional-story-telling-after-stressful-experiences-way-find> [<https://perma.cc/BMN9-NTA2>] ("[Storytelling] can transform one's experience from a personal tragedy to a collective moral account."). See also LOUISE DESALVO, *WRITING AS A WAY OF HEALING: HOW TELLING OUR STORIES TRANSFORMS OUR LIVES* (1999).

174. See *supra* notes 24–26 and accompanying text.

175. See Jonnelle Marte, *Americans Could Lose This Important Consumer Watchdog Under Donald Trump*, WASH. POST (Nov. 11, 2016), <https://www.washingtonpost.com/news/get-there/wp/2016/11/11/americans-could-lose-this-important-consumer-watchdog-under-donald-trump/> [<https://perma.cc/N36U-73T4>] (discussing the CFPB's future in the wake of the 2016 presidential election); Chris Morran, *Future Looks Dim for Consumer Financial Protection Bureau Under Trump Presidency*, CONSUMERIST (Nov. 11, 2016, 4:20 PM), <https://consumerist.com/2016/11/11/future-looks-dim-for-consumer-financial-protection-bureau-under-trump-presidency/> [<https://perma.cc/A6U6-FUUB>].

176. *FTC Complaint Assistant*, FTC, <https://www.ftccomplaintassistant.gov> [<https://perma.cc/Y4NC-JE3T>] (last visited Nov. 28, 2016). See also *Submit a Consumer Complaint to the FTC*, FTC, <https://www.ftc.gov/faq/consumer-protection/submit-consumer-complaint-ftc> [<https://perma.cc/2F6S-JGXB>] (last visited Nov. 28, 2016) (overviewing how to submit a complaint).

177. *FTC Complaint Assistant*, *supra* note 176 (explaining "[t]he FTC cannot resolve individual complaints . . .").

through its Citizen Complaint Center.<sup>178</sup> The Complaint Center also uses the submitted narratives to launch investigations, but does not settle individual complaints.<sup>179</sup> Many state agencies also accept complaints from their constituents via websites, email, and paper forms.<sup>180</sup>

In the context of the CFPB's Database, the incidence of people using the narrative space to write about how problems with consumer credit and financial service providers affected their lives effectively leaps out of the data. Analyzing the narratives based on markers of anger, fear, frustration, and sadness, and linking those markers with complainants' mentioning law and the CFPB broadly and asking for personal help from the CFPB underscores that a subset of consumers are using the complaint mechanism to voice problems that simply cannot be addressed through the complaint process. Yet the dichotomy in the complainants' narratives was perceptible without the systematic analysis presented in this article. As such, people likely are using other government agencies' complaint functions to voice issues that are outside the scope of these agencies' capabilities, yet which would be beneficial for these agencies to address. This therefore raises a similar set of problems across agencies.

Across all of these agencies, if complainants think that the agencies have the ability to seek redress for or otherwise assist them, they may not look for help outside that agency.<sup>181</sup> Even if they do seek alternative assistance, they may not be able to identify the correct places. And even if they are successful in seeking assistance elsewhere, they may become disillusioned with the agency because they did not receive the individualized attention they requested, potentially undermining the agencies' efforts to engage with its constituents.

## VII

### CONCLUSION: RESPONDING TO CALLS FOR ASSISTANCE

That language expressing sadness and fear within the narratives was easily perceptible creates an avenue for the CFPB and, likewise, other agencies to dispel any incorrect beliefs about the agency's role in resolving complaints, as well as to enhance service to constituents. Perhaps the easiest to implement tool is simple text analysis. Text analysis tools will allow each agency to identify these individuals and respond to them in customizable ways.

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178. *Report Violations*, U.S. DEP'T OF JUSTICE, <https://www.justice.gov/atr/report-violations#submit> [<https://perma.cc/5C9R-QNS5>] (last visited Nov. 28, 2016).

179. *Id.*

180. See, e.g., *Filing a Consumer Complaint*, ILL. ATT'Y GEN., <http://www.illinoisattorneygeneral.gov/consumers/filecomplaint.html> [<https://perma.cc/X4RS-A5XB>]; *File a Complaint*, TENN. DEP'T COMMERCE & INS., <https://www.tn.gov/commerce/topic/consumer-file-a-consumer-complaint> [<https://perma.cc/8X26-C43D>] (last visited Nov. 28, 2016); *Consumer Rights & Services*, TEX. DEP'T AGING & DISABILITY SERVS., <https://www.dads.state.tx.us/services/crs/dadsprovider.html> [<https://perma.cc/43MU-MEEX>] (last visited Nov. 28, 2016).

181. Alternatively, people may approach multiple outlets to try to get help and will take what they are offered from whomever offers help because they are so desperate. This likewise presents an opportunity for agencies to direct constituents to more appropriate places to seek help.

For instance, in the context of the CFPB's complaint database, narratives that include markers of sadness and fear and ask for help contain easily identifiable language that the CFPB can use to flag these complaints. This language includes phrases such as "please help" and words like "sad" and "fear" within one or two sentences of "house," "car," "food," and "medicine." Once identified, the CFPB can send the complainant one of several prepared responses that clarifies its role and lists social service and nonprofit organizations as well as websites that the complainant may turn to for the additional assistance they seem to seek. Beyond providing clarification, these responses will support the complaint process's expressive role by demonstrating that the CFPB has heard consumers' pleas and is working to solve their issues as best it is able.<sup>182</sup>

In clarifying the CFPB's role, these responses also will protect against consumers becoming frustrated with the CFPB based on its responses to their complaints, which may not accord with what complainants expected. In a noticeable minority of the sampled narratives, complainants mentioned that they previously had submitted one or more complaints via the CFPB's mechanism that did not end in their desired resolution. These complainants generally seemed annoyed that the CFPB had not taken a more active role in the resolution of their problems, showing a similar misconception about what the CFPB can do to assist consumers as is present in narratives asking the CFPB for individualized help. Consumers' confusion about the CFPB's role in the complaint process could hinder the CFPB's ability to advance consumer protection because such confusion may negatively affect how consumers view the agency, causing the CFPB to lose buy-in from the public.

Simply put, the CFPB is not a pseudo administrative court of the nature that these complainants seek. The same may be true of other government agencies to which people write about their problems. Ultimately, these individuals are desperately in need of help and may have nowhere else to turn. Acknowledging their serious predicaments is the best that the CFPB and other agencies can do, and doing so will be crucial to the CFPB's and other agencies' ability to maintain their public images and assist their constituents. Additionally, given that consumers' pleas show up alongside sad and fearful language, an analysis of the narratives' language may provide another way for the CFPB to identify companies for enforcement actions or to identify products that may warrant regulation. Evaluating the narratives in this way fits with the purposes of the complaint mechanism, and will allow the CFPB to increase the mechanism's effectiveness.

Finally, narratives submitted to other federal and state agencies likewise may provide these agencies opportunities to augment their strategies for meeting their institutional goals. The CFPB is but one agency that allows its constituents to tell their stories when they submit complaints. Government agencies across the

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182. See *supra* notes 24–26 and accompanying text.



country should explore their complaint databases with the results of this article's analysis in mind.