

2014

## Office of Servicemember Affairs Showing Results Early On

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### Recommended Citation

Joseph Axelrod *Office of Servicemember Affairs Showing Results Early On*, 26 Loy. Consumer L. Rev. 578 (2014).

Available at: <http://lawcommons.luc.edu/lclr/vol26/iss3/7>

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## OFFICE OF SERVICEMEMBER AFFAIRS SHOWING RESULTS EARLY ON

*Joseph Axelrod\**

### I. CREATION OF THE OFFICE OF SERVICEMEMBER AFFAIRS

The public is aware that servicemembers face unique personal challenges due to their job's extraordinary nature. One challenge they face that may not be readily apparent is a heightened vulnerability to shady financial practices.<sup>1</sup> Some factors that contribute to this include: costs and uncertainty that result from relocation; a reliable and steady stream of income that entices debt collectors and lenders; the pressure on servicemembers to maintain sound finances; and servicemembers' loyalty to their profession which is exploited in military themed affinity marketing schemes.<sup>2</sup> To help protect servicemembers, Congress created an institution designed to look out for servicemembers' interest.<sup>3</sup>

When Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") in 2010,<sup>4</sup> it mandated the creation of the Consumer Financial Protection Bureau ("CFPB") and the Office of Servicemember Affairs ("OSA").<sup>5</sup> Congress directed the CFPB to create the OSA within a year of its creation.<sup>6</sup> The CFPB has the task of creating and

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<sup>1</sup> CONSUMER FIN. PROTECTION BUREAU, *Information for Servicemembers*, <http://www.consumerfinance.gov/servicemembers/> (last visited April 10, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> *See Id.*

<sup>4</sup> *See* Dodd -Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

<sup>5</sup> *See* 12 U.S.C. § 5493(e).

<sup>6</sup> 12 U.S.C. § 5493(f).

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managing the OSA.<sup>7</sup>

The OSA's mission is to: (1) educate and empower servicemembers and their families to make better informed decisions regarding consumer financial products and services; (2) to work with the CFPB to track and compile complaints from servicemembers and manage complaint responses with the CFPB and other relevant regulatory agencies; and (3) to coordinate with federal and state agencies to implement consumer protection measures that affect financial products and services offered to, or used by, servicemembers and their families.<sup>8</sup> The OSA studies consumer protection issues that affect servicemembers, and works with the CFPB to establish education programs that alert servicemembers to possible predatory financial schemes.<sup>9</sup>

## II. THE OSA'S COMPLAINT REPORT

The OSA tracks complaints about the consumer protection issues that most negatively affect servicemembers.<sup>10</sup> In March 2014, the OSA published "Complaints Received from Servicemembers, Veterans and their Families" (the "Report") describing the types of complaints received, the procedure used in processing them, and the outcomes of the disputes.<sup>11</sup> When the Report was released, the complaint program was fairly new and some complaints were still pending.<sup>12</sup> The Report covers complaints submitted between July 21, 2011, when the CFPB began collecting consumer complaints, and February 1, 2014.<sup>13</sup>

From July 2011, to November 2013, the CFPB continuously added new categories to their complaint process.<sup>14</sup> During that span, the CFPB added a new complaint category

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<sup>7</sup> *Id.*

<sup>8</sup> *See* 12 U.S.C. § 5493(e)(1)(A-C).

<sup>9</sup> Hollister K. Patraeus, *The Office of Servicemember Affairs at the Consumer Protection Financial Bureau: The Twenty-Ninth Charles L. Decker Lecture in Administrative and Civil Law* (Mar. 25, 2011), *in* *ARMY LAW*, Oct. 2011 at 23, 26.

<sup>10</sup> *See* CONSUMER FIN. PROTECTION BUREAU, COMPLAINTS RECEIVED FROM SERVICEMEMBERS, VETERANS, AND THEIR FAMILIES: A SNAPSHOT BY THE OFFICE OF SERVICEMEMBER AFFAIRS (2014), *available at* [http://files.consumerfinance.gov/f/201403\\_cfpb\\_snapshot-Report\\_complaints-received-servicemembers.pdf](http://files.consumerfinance.gov/f/201403_cfpb_snapshot-Report_complaints-received-servicemembers.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 6.

<sup>14</sup> *Id.*

approximately every four and a half months in the following order (starting with the earliest): credit cards, mortgages, bank accounts and related services, private student loans and consumer loans, money transfers, debt collection, and payday loans.<sup>15</sup> The Report covers approximately 14,100 complaints from servicemembers.<sup>16</sup> These complaints resulted in over \$1 million of recovered assets<sup>17</sup> along with other non-monetary benefits such as improving credit scores and halting harassing calls from debt collectors.<sup>18</sup>

### A. *Credit Card Complaints*

Servicemembers submitted an estimated 1,700 credit card complaints.<sup>19</sup> Most complaints were due to consumer confusion with billing status.<sup>20</sup> Less common complaints included: identity theft, fraud or embezzlement, and varying annual percentage rates.<sup>21</sup> The Report highlighted one alarming instance in which a servicemember's credit card company sought a default judgment on a debt while he was deployed.<sup>22</sup> However, it noted that this particular practice was not widespread.<sup>23</sup> Ultimately, servicemembers received monetary relief in approximately 18% of reported incidents.<sup>24</sup>

### B. *Mortgage Complaints*

Mortgage complaints accounted for 4,700 of the complaints.<sup>25</sup> Most of the complaints were about loan modifications, collections, and foreclosures.<sup>26</sup> The complaints uncovered the lack of communication between servicemembers

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<sup>15</sup> *See Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 2.

<sup>18</sup> CONSUMER FIN. PROTECTION BUREAU, *CFPB Recovers More than \$1 Million for Servicemembers, Veterans, and their Families*, (March 6, 2014), available at <http://www.consumerfinance.gov/newsroom/cfpb-recovers-more-than-1-million-for-servicemembers-veterans-and-their-families/>.

<sup>19</sup> CONSUMER FIN. PROTECTION BUREAU, *supra* note 10, at 9.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* (the Report did not cite many of these instances, most likely because it is outlawed by 50 App. U.S.C. § 502).

<sup>24</sup> *Id.* at 10.

<sup>25</sup> *Id.* at 11.

<sup>26</sup> *Id.*

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and lenders regarding the process of obtaining a loan modification and the deadline requirements for certain forms.<sup>27</sup> The lack of lenders' knowledge about military-specific programs contributed as well.<sup>28</sup> For example, if a servicemember requests a short sale on their home because they have to relocate due to a Permanent Change of Station Order, but have not missed any payments, they are permitted to obtain a short sale.<sup>29</sup> One representative case in the Report described how a bank was unaware of this rule and forced the servicemember to miss payments on his mortgage to become eligible for a short sale, thus triggering the negative effects tied to missing mortgage payments.<sup>30</sup>

Some less common complaints include issues with the consequences that follow the inability to make payments and problems in the loan application stage.<sup>31</sup> Servicemembers received monetary relief in approximately 3% of reported incidents.<sup>32</sup>

*C. Debt Collection Complaints*

There were an estimated 3,800 debt collection complaints.<sup>33</sup> Most complaints addressed the practice of attempting to collect a debt that was not owed.<sup>34</sup> Other complaints involved debt collectors' aggressive tactics,<sup>35</sup> among which were threats to impose the following actions: immediate arrest, costly court fees, notice to their military commander, punishment under the Uniform Code of Military Justice, reduction in the servicemember's rank, or revocation of the servicemember's security clearance.<sup>36</sup> Servicemembers only received monetary relief in approximately 1% of reported incidents.<sup>37</sup> However, in debt collection scenarios stopping harassing collection tactics could be the most helpful remedy.

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 11-12.

<sup>31</sup> *Id.* at 12.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 13.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 14.



*D. Bank Account or Service Complaints*

Servicemembers have submitted an estimated 1,500 bank account or service complaints.<sup>38</sup> Most of the complaints addressed the confusing terms financial institutions use in the opening, closing, and managing of checking accounts.<sup>39</sup> Other complaints specifically mentioned deposit and withdrawal issues, hidden fees, and problems relating to low account funds.<sup>40</sup> Servicemembers received monetary relief in approximately 13% of reported incidents.<sup>41</sup>

*E. Private Student Loan Complaints*

Servicemembers filed an estimated 400 private student loan complaints.<sup>42</sup> The complaints about student loans mostly dealt with the repayment of the loan and topics such as “fees, billing, deferment, forbearance, fraud, and credit reporting.”<sup>43</sup> If the servicemember was unable to make payments on the loan then they would experience issues regarding defaults, debt collections, and bankruptcy.<sup>44</sup> Similar to mortgage complaints, servicemembers had trouble with the lenders’ lack of knowledge about certain benefits available to service members on their student loans.<sup>45</sup> For example, some lenders did not know what documentation was required from servicemembers to obtain benefits conferred to them in the Servicemembers Civil Relief Act (“SCRA”).<sup>46</sup> The Report indicates that the root of many of these problems was poor communication between lenders and servicemembers.<sup>47</sup> Servicemembers received monetary relief in approximately 6% of reported incidents.<sup>48</sup>

*F. Vehicle or Other Consumer Loan Complaints*

Servicemembers have submitted an estimated 600 vehicle

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* at 15.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 16.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*; See 50 App. U.S.C. § 502.

<sup>47</sup> CONSUMER FIN. PROTECTION BUREAU, *supra* note 10, at 16-17.

<sup>48</sup> See *Id.* at 17.

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or other consumer loan complaints.<sup>49</sup> Issues with managing the loan, and the lease or line of credit made up the majority of the complaints.<sup>50</sup> The inability to pay the loans led to many consumer problems as well.<sup>51</sup> Monetary relief was awarded to servicemembers in approximately 4% of reported incidents.<sup>52</sup>

*G. Credit Reporting Complaints*

Servicemembers have submitted an estimated 1,200 credit reporting complaints.<sup>53</sup> Like most consumers, servicemembers usually filed credit-reporting complaints because of incorrect information on their credit reports.<sup>54</sup> Additionally, the credit reporting agencies' handling of the investigations into the incorrect credit report information also resulted in complaints.<sup>55</sup> Credit reporting errors are especially important to servicemembers because they can directly, negatively affect their military career.<sup>56</sup> The Report does not cite how many of the complaints led to positive changes in servicemembers' credit scores.<sup>57</sup>

*H. Money Transfer Complaints*

Servicemembers submitted an estimated 50 money transfer complaints.<sup>58</sup> These complaints covered frauds, scams, unauthorized transactions, cancellations, or refunds relating to money transfers.<sup>59</sup> No complaints resulted in monetary relief according to the Report.<sup>60</sup>

*I. Payday Loan Complaints*

Servicemembers have submitted an estimated 100 payday loan complaints.<sup>61</sup> The report cites unexpected fees or interest,

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<sup>49</sup> *Id.* at 18.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 19.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *See Id.* at 20.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *See Id.* at 21.

<sup>61</sup> *Id.*

and difficulty in contacting the lenders for the majority of the complaints.<sup>62</sup> Under the Military Lending Act (“MLA”), Congress created certain protections for servicemembers from payday loan lenders.<sup>63</sup> However, lenders have responded by creating loan products that do not fall under the purview of the MLA, yet serve the same purpose as payday loans.<sup>64</sup> The new products have created industry wide confusion relating to how these new products are covered by the MLA, if at all. This confusion has led to many of these complaints.<sup>65</sup> At the time the Report was published, no complaints had resulted in monetary relief.<sup>66</sup>

### III. IMPLICATIONS FOR THE OSA

The OSA is performing an important function not only for servicemembers and their families but also for the country as a whole. Servicemembers are given extra protections because of their “relative youth and financial inexperience”, their propensity to relocate into areas with decreasing home values and their high likelihood for lacking sufficient credit.<sup>67</sup> These factors combined make them easy targets for predatory financial services.<sup>68</sup> Servicemembers’ unique situation has led lawmakers to create a plethora of legislation that servicemembers can take advantage of such as the MLA<sup>69</sup> and SCRA.<sup>70</sup> Additionally, other government programs and services have been created to protect servicemembers’ financial wellbeing.<sup>71</sup>

There may not be another well-defined group as transitory in nature as servicemembers, but many civilian Americans are “young [and/or] financially inexperienced” and find themselves in

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at 22.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> CONSUMER FIN. PROTECTION BUREAU, *Office of Servicemember Affairs Financial Fitness Forum: Building Bridges Between the Financial Services Industry and the Department of Defense* 6 (2012), available at [http://files.consumerfinance.gov/f/201209\\_cfpb\\_Financial-Fitness-Whitepaper.pdf](http://files.consumerfinance.gov/f/201209_cfpb_Financial-Fitness-Whitepaper.pdf).

<sup>68</sup> *Id.*

<sup>69</sup> 10 U.S.C. § 987.

<sup>70</sup> 50 App. U.S.C. § 502.

<sup>71</sup> CONSUMER FIN. PROTECTION BUREAU, *Additional Resources for Servicemembers, Veterans, and their Families*, <http://www.consumerfinance.gov/servicemembers/additionalresources/> (last visited April 3, 2014).

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similar financial situations to those of servicemembers. If these initiatives end up impacting servicemembers positively, the CFPB could possibly transition them to aid other financially at-risk Americans.