

NAFCU Regulatory Affairs Counsel Angela Meyster said in a letter to the FHFA.

In addition, NAFCU urged the FHFA and CFPB to select only robust and representative subsets of the data when they seek to use it to support particular policies or rulemakings. “Further, the agencies should incorporate into any analyses the important differences between the types of entities involved in the mortgage and housing markets,” said Meyster.

NAFCU harbors significant privacy concerns for credit union members that may be affected by this proposal, said the trade group. Those concerns have been intensified by a recent Government Accountability Office report which found that data breaches of government systems are up 42 percent over the past year.

The agencies have previously said the database will not contain personally identifiable information and that precautions will be taken to ensure that individual consumers cannot be identified through the database or through any datasets that may be made available to researchers or the public. However, “NAFCU remains concerned that potential breaches may occur and that raw data attributable to particular financial institutions may be leaked,” Meyster said.

“The agencies should ensure they have in place advanced and adequately tested cybersecurity systems before including potentially sensitive and identifiable information,” she added.

### ***Lawmakers Concerned Too***

On a related note, one piece of legislation circulating on Capitol Hill that is of potential significance for the mortgage lending industry is H.R. 4604, the CFPB Data Collection Security Act, sponsored by Rep. Lynn Westmoreland, R-GA.

H.R. 4604 would require the CFPB to create an opt-out list for consumers who do not want the bureau to collect personally identifiable information about them and to delete or destroy information about a particular consumer within a specified period of time following collection.

It further would require CFPB employees accessing personally identifiable information about consumers to hold a “confidential” security clearance.

For Rep. Sean Duffy, R-WI, this has implications for the NMB being jointly developed by the FHFA and the CFPB. “I have a real concern about data and the information that has come out in regard to the CFPB’s collection of data – but more recently what’s been told to us by the FHFA about the information and data they are going to be collecting in conjunction with the CFPB,” the congressman said

during a hearing last week.

But Ed Mierzwinski, consumer program director with the U.S. Public Interest Research Group, disagreed. “I don’t know any consumer or privacy organization that has endorsed the proposals to rein in the CFPB’s use of data,” he said. “I think nobody is concerned about the government agency’s use of data. They are confident they will protect it.” □

## **CFPB, State AGs Still Teaming Up, Despite Absence of Formal MOU**

The CFPB and the state attorneys general are well-positioned to work together and are continuing to do so, even though they have not completed efforts to strike a formal memorandum of understanding explicitly spelling out the terms of their cooperative relationship, one legal expert said recently.

One of the areas in which such cooperation is continuing is in issues that affect U.S. military service members, according to attorney Clarine Nardi Riddle, who chairs the government affairs practice of the Kasowitz, Benson, Torres & Friedman law firm in Washington, DC. Riddle served from 1989 to 1991 as the first female state attorney general of Connecticut after a stint as the deputy AG in the preceding three years.

“There’s a natural sweet spot between both the state AGs and the CFPB, in that they’re dealing with consumer protection,” Riddle told *Inside the CFPB*. “In that case, both of the organizations’ institutional jurisdiction is in that area, so they’re drawn to each other by common purposes in that they both have responsibility for compliance and enforcement in that arena. I think there’s a natural symbiotic relationship between the two due to that.”

Plus, CFPB Director Richard Cordray is a former AG for Ohio, and he has pledged to work closely with his former colleagues on behalf of stronger consumer protection.

“The fact that the bureau is now involved in sharing consumer-complaint information with a number of state AG offices is important, because a consumer doesn’t always know where to file a complaint,” Riddle said. “I think, even though they haven’t gotten a MOU launched between the two groups, their work goes on, and it’s a very solid partnership.”

In fact, it’s an exciting relationship for the state AGs “in particular because they are now able to work on joint enforcement with the CFPB, and they’re also authorized to carry out and play a role in the bureau’s

enforcement arena too, and that makes it even more exciting,” she added.

For example, Illinois AG Lisa Madigan recently filed a case under the Dodd-Frank Act, in addition to state law – “so that gives a new tool to state AGs, to use new Dodd-Frank provisions in concert with state consumer protection provisions,” Riddle said. □

## Worth Noting

**House Financial Services Committee Formally Passes More CFPB Legislation.** The House Financial Services Committee took final votes on some potentially significant CFPB-related measures.

- H.R. 1779, the Preserving Access to Manufactured Housing Act of 2013, introduced by Rep. Stephen Fincher, R-TN, was approved by voice vote.
- H.R. 4521, the Community Institution Mortgage Relief Act of 2014, introduced by Rep. Blaine Luetkemeyer, R-MO, was approved 43-16.
- H.R. 4466, the Financial Regulatory Clarity Act of 2014, introduced by Rep. Shelley Moore Capito, R-WV, was approved 34-25.
- H.R. 2673, the Portfolio Lending and Mortgage Access Act, introduced by Rep. Andy Barr, R-KY, was approved 36-23.
- H.R. 3211, the Mortgage Choice Act of 2013, introduced by Rep. Bill Huizenga, R-MI, was passed by voice vote on May 7, 2014.

(For specifics on each of the bills, please see the May 12, 2014, issue of *Inside the CFPB*, which provided a detailed break-down of each measure and its main provisions.)

**Law Firm Goes Fishing in Wake of CFPB Scrutiny of Ocwen Financial.** The law firm of Ryan & Maniskas of Wayne, PA, is trying to drum up interest and participation in a class action against Ocwen Financial Corp. and some of its officers over potential securities law violations. “Our investigation concerns Ocwen’s mortgage servicing process practices,” the firm said recently in an announcement soliciting participation from those who own shares of the company.

The firm cited the December 2013 action by the CFPB and 49 state attorneys general compelling Ocwen, the country’s largest nonbank mortgage loan servicer, to provide \$2 billion in principal reduction to underwater borrowers and to refund \$125 million to the nearly 185,000 borrowers who had been foreclosed upon.

At the time, the bureau said the consent order “addresses Ocwen’s systemic misconduct at every stage of the mortgage servicing process.”

“The CFPB action makes clear that, more than three years after agreeing to adhere to mortgage servicing industry standards, the company has made no significant improvements to its practices,” the law firm said.

**Feds Reach \$97 Million Settlement With Sallie Mae After Referral From CFPB.** Earlier this month, the U.S. Department of Justice brought an enforcement action against Sallie Mae (also known as Sallie Mae Bank and Navient Solutions), the largest servicer of federal and private student loans, which the government found to be systematically violating the legal rights of U.S. service members. The Federal Deposit Insurance Corp. also reached a settlement with the company that addresses allegations of student loan servicing misconduct.

Sallie Mae was ordered to pay a combined \$96.6 million in restitution and penalties.

The CFPB initially referred the matter to the Justice Department, Richard Cordray, the bureau’s director, said this week. Although the bureau was not a formal party to the enforcement action, “we are deeply concerned about the effects of these kinds of practices,” he said.

In response to the enforcement action, Sallie Mae Bank in a statement said, “We are confident that in settling these regulatory matters, the bank is making the appropriate adjustments for our customers regarding past issues with disclosure of late-fee assessments and [Servicemembers Civil Relief Act] compliance. We regret any inconvenience or hardship that our customers may have experienced. Initiatives are underway to prevent such errors from reoccurring and apply the clear regulatory guidance these orders now provide.”

**Medical Debt Disproportionately Slamming Borrower Credit Scores, CFPB Finds.** Consumers’ credit scores may be overly penalized for medical debt that goes into collections and shows up on their credit report, the CFPB found in a new study. According to the bureau, credit scoring models may underestimate the creditworthiness of consumers who owe medical debt in collections. The scoring models also may not be crediting consumers who repay medical debt that has gone to collections.

Specifically, the report stated that credit scores may underestimate creditworthiness by 10 points for consumers who owe medical debt. Also, credit scores