CDIA

Consumer Data Industry Association
1090 Vermont Ave., NW, Suite 200
Washington, D.C. 20005-4905

P 202 371 0910

Writers email: eellman@cdiaonline.org
Writer's direct dial: +1 (202) 408-7407
CDIAONLINE.ORG

January 13, 2021

The Honorable Mark Mullet, Chair
Senate Business, Financial Services & Trade
Olympia, WA 98504

Re: Oppose S.B. 5010, concerning the use of credit scores to determine insurance rates

Dear Chair Mullet,

I write on behalf of the Consumer Data Industry Association ("CDIA")[1] to respectfully oppose S.B. 5010, a bill that would ban credit-based insurance scores ("CBIS"). The bill, while well-intentioned to attempt to serve consumers in general and consumers impacted by COVID-19, could hurt the very consumers the proposal is trying to protect by eliminating predictive, reliable information. We have several points: (1) Credit reports are accurate and CBIS are reliable predictors of risk; (2) Multiple studies on credit-based insurance scores show the lack of bias against suspect classes; (3) Consumer credit continues to hold up in spite of the pandemic and the economic crisis from that pandemic; (4) There are better alternatives to protect consumers than a ban on CBIS.

Credit reports are reliable and CBIS are predictive of credit risk[2] and, when used as a factor for insurance decisions, credit information is a racially neutral,[3] predictive indicator of insurance risk.[4] By removing the consideration of accurate, credit information, the proposal is removing one important indicator of risk. The removal of this risk indicator may mean that many more consumers in the state who are at risk of having their insurance rates rise.[5]

---

[1] The Consumer Data Industry Association is the voice of the consumer reporting industry, representing consumer reporting agencies, including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals and to help businesses, governments, and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition, and expanding consumers' access to financial and other products suited to their unique needs.

[2] "Available evidence indicates that the information that credit-reporting agencies maintain on the credit-related experiences of consumers, and the credit history scoring models derived from these experiences, have substantially improved the overall quality of credit decisions and have reduced the costs of such decision-making." *Credit Reporting Accuracy and Access to Credit, Federal Reserve Bulletin, Summer 2004*, *320; See also,* *An Overview of Consumer Data and Consumer Reporting, Federal Reserve Bulletin*, *Feb. 2003, 70 (citations omitted).*

[3] *See, e.g.,* Fed. Trade Comm., *Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance*, 2007 ("FTC Report on CBIS").

[4] *See, e.g.,* Morris, Darcy Steeg, Daniel Schwarcz, Joshua C. Teitelbaum, *Do Credit-Based Insurance Scores Proxy for Income in Proxy for Income in Predicting Auto Claim Risk?*, Georgetown Univ. Law Ctr., April 25, 2017.

[5] "[C]redit information saves consumers anywhere from 30 percent to 59 percent on their car insurance (with some carriers providing up to 80 percent of their policyholders with a discount)," *Insurance scoring saves consumers money*, Am. Property Casualty Ins. Assn., 2019, http://www.pciaa.net/docs/default-source/default-document-library/insurance_scoring_overview.pdf?sfvrsn=2 (citations omitted). Other studies found similar results. For example, a study in Arkansas consistently found that approximately 45% of policyholders enjoyed a

1. Credit reports are accurate and credit-based insurance scores are reliable predictors of risk

Accuracy is the life-blood of the credit reporting system and credit bureaus already have a high degree of accuracy. Consumer reporting agencies strive to be as accurate as possible, and lenders rely on accurate consumer reports to support effective decision-making. Our members' hard work is proven by several reports and studies. The Federal Trade Commission ("FTC") said that there is a "market incentive[] to maintain and improve the accuracy and completeness of [credit] reports."[6] The Federal Reserve Board ("FRB") said that "[o]verall, research and creditor experience has consistently indicated that credit reporting company information…generally provides an effective measure of the relative credit risk posed by prospective borrowers."[7]

A high accuracy rate has also been proven in several studies. In 2011, PERC, the Policy and Economic Research Council ("PERC") looked at over 81,000 credit accounts on consumers' credit reports. This study was the most comprehensive and statistically sound study to ever be performed on the accuracy of data collected and maintained by Equifax, Experian and TransUnion. The study was also the first (and only) third-party, peer-reviewed study dealing with credit report errors and their material effect on the creditworthiness of consumers. In this study, just 0.93% of all credit reports examined by the consumers prompted a dispute that resulted in a credit report correction and an increase of a credit score of 25 points or greater.[8]

A 2012 study conducted by the FTC showed that 98.7% of all credit reports are materially accurate.[9] The FTC data showed that just 2.2% of participants had errors in their reports that lowered their score tier by one or more tiers, like moving from nonprime to subprime. By contract, the CFPB has routinely reported a high rate of complaints filed by consumers against credit bureaus, but the CFPB cautions that "we [the CFPB] don't verify all the facts alleged in these complaints [that

---

decrease in their premium versus 13% who incurred an increase. The remaining approximately 42% of policyholders were otherwise unaffected. Ark. Dep't. of Ins., *Use and Impact of Credit in Personal Lines Insurance Premiums Pursuant to Ark. Code Ann. § 23-67-415, June 7, 2017*. The Vermont Department of Insurance reviewed studies of credit-based insurance scoring to assess their efficacy as a predictor of risk, and to assess the potential impacts of limitations on the use of credit-based insurance scoring on insurance rates in Vermont. The department concluded that if the use of [CBIS] was prohibited, "approximately two-thirds of vehicles with premiums influenced by credit-based insurance scoring would see an increase in premium."
Vermont Dep't. of Ins., "*A Study of Credit-Based Insurance Scoring for Motor Vehicle Insurance – Impact and Limitations*," December 15, 2016, 29.

[6] Fed. Trade Comm., *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Dec. 2004*, 7 ("*FTC Accuracy Report*")

[7] *An Overview of Consumer Data and Consumer Reporting, Federal Reserve Bulletin*, Feb. 2003, 50-51 (citations omitted); *See also*, *Credit Reporting Accuracy and Access to Credit, Federal Reserve Bulletin, Summer 2004, 320.*

[8] Turner, Michael A., Robin Varghese, and Patrick D. Walker (2011). *U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts* ("PERC Study"). Policy and Research Council (PERC).

[9] *FTC Accuracy Report.*

consumers report to the CFPB]."[10] It is important to note that a "complaint" may not consist of any actual dispute on a consumer's file, and a sizable majority of errors (74%[11] or 88%[12]) on credit reports come from the data furnishers to the credit bureaus but are not caused by the credit bureaus themselves. Everyone in the consumer reporting ecosystem has an obligation to keep errors as low as possible. It is a key value for CRAs to keep errors to a minimum.

2. Credit-based insurance scores and credit reports are tested against discrimination

To address concerns by Congress that credit scores or CBIS discriminate against protected classes, the FRB and FTC both conducted extensive studies and proved a lack of disparate impact and found in favor of the predictability of CBIS. The FRB report said that there is "no evidence of disparate impact [for credit-based insurance scores] by race (or ethnicity) or gender."[13] The FTC reported to Congress that insurance scores correlate with both the number of filed claims and the total cost of the filed claims, leading the FTC to conclude that insurance scores allow for more accurate underwriting and risk pricing.[14]

3. Consumer credit continues to hold up despite the pandemic and the economic crisis from that pandemic

The United States continues to bend under a raging pandemic and enormous economic pain. Yet, consumer behavior, law, and industry processes are helping consumers' credit histories weather the public health and economic storms. As reported by CNBC in January 2021, the average FICO Score reached a record high of 710 in 2020. Experian found that "[t]he national average FICO® Score® increased by seven points this year—the largest annual improvement in at least a decade." The study found that "[m]ajor credit score components, such as credit utilization and payment history, have also changed for the better on average, with utilization rates and late payments decreasing at a record pace. Credit utilization, the amount of available revolving credit in use compared with credit limits, is the second most important element in a FICO score, which represents 30% of the score.[15]

In 2020, The Experian study found, "consumers reduced their credit card debt -- the most commonly held form of revolving debt -- by 14%. This in turn impacted average credit utilization, which dropped 3.5 percentage points, from 28.8% in 2019 to 25.3% in 2020. It's unclear what drove Americans' ability to pay down their credit card debt, but the impact has clearly been reflected in the

---

[10] Fed. Reserve's Office of Inspector General ("OIG") "found examples of noticeable inaccuracies in our analysis of the 254,835 complaints in the Consumer Complaint Database [when it looked at the complaint database in 2014]. *Opportunities Exist to Enhance Management Controls Over the CFPB's Consumer Complaint Database*, Office of the Inspector General, Federal Reserve, Sept. 2015.

[11] *Consumer Response: A Snapshot of Complaints Received, July 21, 2011 through June 30, 2014*, CFPB, 16, July 2014.

[12] *Id., FTC Accuracy Report*.

[13] Fed. Reserve Bd., *Does Credit Scoring Produce a Disparate Impact?*, 2010-58.

[14] Fed. Trade Comm., *Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance*, Report to Congress, (July 2007).

[15] Blog, *Experian 2020 Consumer Credit Review*, Experian, Jan. 4, 2021.

improvement of the average credit score. Improvements of this kind add to consumers' overall credit health and can cause scores to rise in a short period of time." The report also found that in 2020, "69% of Americans had a 'good' credit score of 670 or above," three points higher than 2019. A FICO spokesperson said that for 2020, "[m]issed payments reported are down, consumer debt levels are decreasing and the significant steps taken by both the government [with] stimulus spending and private sector [with] lender payment accommodations to help consumers affected by COVID-19 are all contributing to this trend in average score."[16]

Other highlights of the study found that the states with the lowest average scores saw some of the biggest increases; all generations increased their average FICO® scores; and few consumers; and fewer consumers had subprime credit in 2020. In fact, "[s]ince 2019, the portion of consumers with a subprime score has decreased from 33.8% to 30.9%—a nearly 3 percentage point drop. This improvement is significant and is three times as large as the improvement between 2018 and 2019, when the ratio decreased by less than 1 percentage point."[17]

TransUnion found that CBIS also showed strong stability throughout 2020, with the pace of improvement increasing compared to the last several years. Among other potential factors, the accelerated improvement is driven by a decrease in credit utilization, a decline in delinquencies, such as accounts sent to collections, an increase in credit card payment amounts relative to account balance, and an increase in credit tenure from an aging population and a decline in new account openings. Between March and October 2020, 85% of consumers either remained in the same or moved to a lower risk (higher score) score segment.[18]

4. An alternative approach

As an alternative to a ban, which is harmful to consumers, we stand ready work your committee, the insurance trades, and the office of the governor and the insurance commissioner, to adopt a proven alternative approach. The state should look towards rules that have been well-established for consumer protection. CDIA encourages the Division to consider the Extraordinary Life Circumstances contained in § 6 of the Model Act Regarding Use of Credit Information in Personal Insurance ("Model Act"). This model was promulgated by National Conference of Insurance Legislators ("NCOIL"), first in November 2002, readopted in November 2005, amended in July 2009, and readopted again in November 2015. The Extraordinary Life Circumstances were put forward during prior national financial hardship and they are well-suited for the crisis today. Under the Extraordinary Life Circumstances of the Model Act, an insurer is required, upon request of the applicant, to consider the impact of, among other things, a (a) "Catastrophic event, as declared by the federal or state government"; (b) "Serious illness or injury, or serious illness or injury to an immediate family member"; and (c) "Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination".

[16] *Id.*

[17] *Id.*

[18] *Credit-Based Insurance Risk Scores and COVID-19: What You Need to Know*, TransUnion, Dec. 2020.

5. Conclusion

We appreciate the critical need to help consumers through the public health crisis, that has turned in to a financial crisis, but the legislation, while well-intentioned to attempt to serve consumers, could hurt the very consumers the proposal is trying to protect by eliminating predictive, reliable information. We would welcome a chance tp find places of agreement that will maintain a safe, sound insurance risk management process, balanced with the needs of consumers to be protected in this unprecedented time.

Respectfully submitted,

Eric J. Ellman
Senior Vice President, Public Policy & Legal Affairs