



June 29, 2021

The Honorable Maxine Waters
Chairwoman
House Committee on Financial Services
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
House Committee on Financial Services
Washington, DC 20515

Dear Chairwoman Waters, Ranking Member McHenry and Members of the Committee:

On behalf of the National Taxpayers Union, the nation's oldest taxpayer advocacy organization, I write to express our strong opposition to the three legislative proposals that will be considered at tomorrow's hearing entitled "A Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity." At this hearing, committee members will discuss a trio of schemes which will put the government before consumers, threaten the accuracy of credit reporting, and restrict the availability of credit for lower-income Americans. These proposals are structurally flawed and deserve no support. It is our hope that you stand with taxpayers and consumers by rejecting these dangerous, unserious "solutions."

Accurate and complete credit reports are the bedrock of this country's robust and competitive consumer credit market. Most, if not all, lenders rely upon credit history data found in credit reports to identify and evaluate potential risks a consumer may pose before entering into a financial relationship with that consumer. That information is critical for lenders to evaluate the applicant's ability to repay and to establish interest rates and other loan terms. A degradation of reporting standards could lead to more borrowers being eligible for a taxpayer-backed mortgage by Fannie Mae and Freddie Mac, or insured by the Federal Housing Administration which may not be able to handle additional credit obligations. Under such a scenario, if more unqualified borrowers default on their mortgages, it could threaten the housing system and lead to another significant bailout of the GSEs.

Instead of putting bureaucrats over consumers, lawmakers should expand the amount of data and other information that would make credit reports more predictable and inclusive. For example, bipartisan legislation, the "Credit Access and Inclusion Act" would encourage the reporting of telecommunications data and rental data to help reduce our country's widespread credit invisible population. Additionally, NTU strongly supports the creation of a pilot program that would report the payment or nonpayment of rent by tenants in public housing, which we believe can move the needle for many underserved communities.

However, the proposals on the committee agenda, if enacted, would have a chilling effect on credit reporting and ultimately harm consumers by restricting access to credit or raising interest rates on loans made to borrowers considered "subprime" or less than high quality.

Protecting Your Credit Score Act

Though well-intentioned, this legislation would cede more power to the unaccountable Consumer Financial Protection Bureau (CFPB), jeopardize consumer information, and potentially weaken lending underwriting

standards. Perhaps the most problematic provision of the Protecting Your Credit Score Act is the requirement for the three major consumer credit agencies, which are entirely private businesses, to jointly create an online consumer portal for consumers to access their credit reports and scores, dispute errors, and place or lift security freezes. While a one-stop shop may seem to offer consumer benefits, having one location containing every credit report, personal information, and social security number of every individual could have disastrous consequences in the event of a cyber hack or data breach.

Further, this legislation provides no legal protection to these entities in the event of a large-scale cyber breach, leaving these businesses vulnerable to big class-action lawsuits. This proposal also changes how consumers dispute adverse information found in their credit reports, allowing individuals to flood reporting agencies and lenders with false claims of inaccuracies that must be resolved in a timely manner. Ultimately, this proposal shifts the burden on dispute resolution from the individual onto the credit bureaus.

Additionally, this bill establishes a second, duplicative ombudsman at the CFPB who will have sole control over credit reporting. The ombudsperson would help resolve persistent errors in credit reports that aren't addressed in a timely manner, and make referrals for supervisory or enforcement actions against credit reporting companies. This situation sets up a new opportunity for the CFPB to specifically target certain companies that may become "unsavory" and be subject to political targeting.

NTU also questions the need for such legislation, as the Fair Credit Reporting Act (FCRA) currently provides consumers ample opportunity to dispute inaccurate information on their credit reports. The FCRA already requires these disputes to be resolved in a timely manner and, if the disputed information is incorrect, the information in question is eliminated from a report. In essence, this legislation does not bring any new meaningful benefits to the credit reporting process

The National Credit Reporting Agency Act

This legislation is perhaps the most significant proposal of government overreach into private credit markets ever considered by this committee. While some portray the National Credit Reporting Act as a "public option" for credit reporting, in reality it is a government-run credit bureau that will socialize credit information and access. Under such a scheme, the Consumer Financial Protection Bureau would be charged with maintaining a database with the financial data of every American and determining how creditworthy each person is. In short, the government would be deciding who does, or doesn't, qualify for a mortgage, car loan, or other sources of credit. It takes away the ability of financial institutions to make loans and instead puts it in the hands of bureaucrats.

To be clear: consumers won't benefit from a government-run credit reporting system. Innovation led by private market actors is working well, and delivering the most efficient outcomes for consumers and small businesses alike. If the government moves forward with a competing scheme, it could have a chilling effect on innovation in credit markets. Should the government develop its own reporting platform, it would be expensive, duplicative, inefficient and curtail development of new, more predictive private models.

NTU explored the potential issues of a government-run credit reporting system in October of 2020, which may be of interest to this committee. [In that blog post](#), I argued that there are three primary interests that would limit the success of such a government-run system: cost, functional viability, and usability. As we wrote back then:

NTU identifies three major problems that could arise if Trump's Office of the Comptroller of the Currency (OCC), or a future Biden administration, creates a government utility entrusted with credit reporting and credit scoring.

1. Cost

The federal government currently has no existing infrastructure when it comes to maintaining credit reports and computing a numerical credit score. Given this reality, the government either needs to build their own system or buy one. No matter which avenue, the cost is likely to be expensive. To build a new system will require thousands of employees and untold resources that will take years to complete. By that time private companies will be years ahead with innovative new models that are more predictive than whatever outdated system the government creates. Once complete, the federal government would have to retain a significant workforce to continuously update credit files, settle disputes, and derive the credit score. According to a quick internet search, the three major credit bureaus employ 36,000 people. Taxpayers may be forgiven for worrying that a government entity would have a much bigger payroll to accomplish what the private sector can do now.

2. Functional Viability

If the government continues ahead with its plan, the creation and operation of a public reporting agency will be a significant expense that will be paid for by taxpayers. Once up and running, how would pricing work and would it be profitable? If the government decides to not charge a fee, or one that is below market rates, it could impact the viability of private businesses already operating in this space. To this end, if the government runs a yearly loss would it fall on taxpayers to keep an unprofitable system running?

The OCC claims it will help the 28 million Americans that currently do not have a credit score. However, how will the OCC by itself determine who is or isn't scored? Will it go through census data and cross reference it through data from private companies? By that time, the federal government may say it's just easier for everyone to have a national credit score and potentially monitor every portion of an individual's financial life. Be careful, "big brother" might literally judge you for spending too much money at the grocery store or your local coffee shop.

3. Usability

Nearly all lenders already have trusted experience with private sector firms that provide credit scores. Since the overwhelming majority already have some level of credit file, and by extension a credit score, it may not be worth the additional hassle of trying out the government-run score. As newly developed models and products move to market to meet evolving credit scoring challenges, by the time the government creates its own system it could be years behind the industry when it comes to data inclusive models. Plus, if lenders choose not to accept the government-run credit score, consumers who are forced to have this score would not have equal access to credit and would be no better off.

Aside from these aforementioned general concerns, this bill also contains many issues that should concern every consumer or business. For example, there includes a requirement that anyone who furnishes to any CRA must also furnish to the government-run credit bureau; hefty financial penalties for data furnishers who report

inaccurate or incomplete information to the government run credit bureau; and an unprecedented amount of power given to the already powerful, unaccountable CFPB.

Comprehensive CREDIT Act

Finally, the Comprehensive CREDIT Act (H.R. 4120) would drastically reduce the accuracy and predictiveness of credit reports and credit scores - thereby putting stress on the foundation of sound lending standards. This will lead to a less stable financial system, undermining safety and soundness of private sector credit reporting that has built up over the last decade. As a result, the Comprehensive CREDIT Act will socialize credit scoring and, therefore, affect credit allocation.

Lawmakers should be cautious in their approach to amending credit reporting laws due to the unforeseen impacts it could have on consumers and government programs. Credit reports are an integral piece for companies to determine a person's individual credit score through consumer credit-scoring models. The use of credit scores is incredibly far-reaching and the credit report information is used to help determine the likelihood that prospective borrowers will repay their loans.

First and foremost, this legislation mandates that credit scores be made available - free of charge - to all consumers. It is wholly un-American to mandate that products produced by private-sector actors be forced to give away their product for free. Moreover, Section 204 would require nationwide CRAs to provide a credit score for free to consumers on request via a government-mandated central website and through companies' individual websites. If certain companies wish to allow consumers to check their credit score for free, that is entirely their choice, but it should not be required by the Congress.

Additionally, H.R. 4120 proposes to hide negative, but accurate, information associated with certain credit obligations. This means credit reports will be incomplete and ultimately less predictive of credit scores. With less accurate consumer reports and scores, creditors will be inevitably forced to reduce the amount of credit extended and/or raise prices to cover for the additional risk. As it relates to medical debt, this legislation simply hides certain obligations and pretends that they don't exist. There are some targeted reforms that could be considered when it comes to the furnishing of medical debt - both paid and unpaid - such as the substitute amendment from Rep. Patrick McHenry (R-NC) that was rejected during the markup of H.R. 2547. Simply passing a law pretending certain debt doesn't exist is an unworkable attempt at trying to solve a real problem many consumers face.

Thank you for considering our viewpoints on these critical issues. Should you be interested in engaging on any of the above proposals or should you have any questions, we are at your disposal.

Sincerely,

Thomas Aiello
Director of Federal Affairs