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The Honorable Nily Rozic, Chair, Assembly Committee on Consumer Affairs & Protection
The Honorable Patricia Fahy, Chair, Assembly Committee on Banks
New York State Assembly
Albany, NY 12224

Dear Chair Rozic and Chair Fahy:

Credit reports are accurate and reliable predictors of risk. If a consumer has a dispute with a credit bureau, these disputes are resolved quickly, and often with the consumer's satisfaction with the process. I write on behalf of the Consumer Data Industry Association ("CDIA") to offer written comments in advance of your committees' December 6, [hearing](#) "[t]o examine the accuracy and effectiveness of consumer credit reports and opportunities to improve and modernize the credit reporting system."¹

As your committees may know, the credit reporting system includes not just credit bureaus. There are three other key members of the credit reporting ecosystem. Consumer reporting starts with consumers, who are empowered with legal rights. The ecosystem also includes lenders and creditors that report data to credit bureaus ("data furnishers"), and lenders and creditors that use the information provided to credit bureaus ("data users"). Both furnishers and users have legal obligations to which they must adhere. Consumer reporting agencies have extensive legal obligations, of course, some of which are noted in this letter. CDIA hopes that your committees, when looking at credit bureaus, also consider taking a wider, holistic view of the consumer reporting system. CDIA welcomes the opportunity to serve as a resource to your committees as you continue your review of the credit reporting system.

Credit report information propels individual consumer credit needs and the overall American economy. The nationwide credit bureaus, Equifax, Experian, and TransUnion, help millions of consumers obtain the credit they need for a new car or a new home, to send their kids to college, and much more. I look forward to sharing additional information with your committees about (1) the accuracy of credit reporting, (2) the robustness of the dispute resolution process, and (3) how the elevated credit reporting complaint levels reported to the CFPB must be understood in context, including how they are driven by credit repair schemes.

1. Empirical research by federal agencies and third-party institutions shows the accuracy of credit reports

Accuracy is the bedrock of the credit reporting industry and getting credit reports right for consumers is our most important job. That mission is reflected by the high accuracy rate of credit reports.

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.

The credit bureaus' hard work is proven by several reports and studies that withstand rigorous academic and scientific scrutiny. In addition to this empirical research, there are government agency observations. The Federal Trade Commission ("FTC") said that there is a "market incentive[] to maintain and improve the accuracy and completeness of [credit] reports."² The Federal Reserve Board highlighted the reliability that credit reports provide when it 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."³

The credit bureaus' hard work is proven by several reports and studies that withstand rigorous academic and scientific scrutiny. In addition to this empirical research, there are government agency observations. A high accuracy rate is proven in several studies. In 2011, 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 ever 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 consumers' creditworthiness. 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.⁴ The FTC accuracy study from 2012 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,⁵ showing a high accuracy rate.

Since the 2012 FTC Report was published, a great deal has occurred. For example, the CFPB began supervising the nationwide credit bureaus; far less medical debt⁶ and public records appear on credit reports; documents submitted from consumers with disputes are scanned and shared with furnishers, and major investments in technology have occurred.⁷

2. The credit reporting dispute process is sound, efficient, and beneficial for consumers

Accuracy is our north star. Accurate credit reports are driven by both the law⁸ and competition.⁹ Several consumer groups, including Consumer Reports, called the federal Fair Credit Reporting Act ("FCRA") "a robust law that gives consumers Fair Information Practices based rights. For example, consumers have the right to know about, inspect, dispute, and correct their files. The FCRA requires

² Federal Trade Commission, [Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003](#), 7 (Dec. 2004). ("2004 FTC Report").

³ Robert B. Avery *et al.*, [An Overview of Consumer Data and Consumer Reporting](#), Federal Reserve Bulletin, 50-51 (Feb. 2003), (citations omitted), *See also*, Robert B. Avery *et al.*, [Credit Reporting Accuracy and Access to Credit](#), [Federal Reserve Bulletin](#), 320 (Summer 2004).

⁴ Michael A. Turner *et al.*, [U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts](#), Policy and Research Council ("PERC"), 8 (May 2011), ("PERC Study").

⁵ Federal Trade Commission, [Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003](#), A-4 (Dec. 2012).

⁶ Through voluntary initiatives by the nation's credit bureaus 70% of all medical debt will be removed from credit reports. See, [Joint Measures from Consumer Credit Reporting Agencies Remove Nearly 70% of Medical Collection Debt Tradelines from Consumer Credit Reports](#), March 18, 2022

⁷ Additional credit bureau innovations since the 2012 FTC Report include requiring debt collectors to include the name of the original creditor; retiring legacy data reporting formats and requiring all furnishers to report in the Metro 2[®] Format; and requiring the full date of birth to be reported for authorized users.

⁸ 15 U.S.C. § 1681 *et seq.*

⁹ *See, infra*, at n. 1 (The FTC wrote that there is a "market incentive[] to maintain and improve the accuracy and completeness of [credit] reports").

purpose specificity before a report can be accessed.”¹⁰ Consumers are encouraged to review their credit reports at www.annualcreditreport.com, where they can obtain one free report per credit bureau per year. The nationwide credit bureaus also extended through 2023, the ability of consumers to obtain one free report per credit bureau per week.

Scientifically stress-tested data from the PERC study shows that 95% of all consumers who participated in the dispute process were satisfied with the outcome¹¹ and data from the FTC shows that more than 90% of disputes that were resolved “as requested by the consumer.”¹²

3. The elevated credit reporting complaint levels reported to the CFPB must be understood in context, and they are primarily driven by credit repair schemes

A. The CFPB does not scrutinize complaints received to its Consumer Complaint Database

It is important to remember that while the credit bureaus have a legal obligation to investigate all disputes by consumers to the credit bureaus, the CFPB does not evaluate the validity of complaints, but it should. The CFPB itself has said that “we [the CFPB] don’t verify all the allegations [that consumers report to the CFPB] in complaint narratives.”¹³ This lack of analysis by the CFPB makes it hard for the public and others to assess what is a general complaint about credit bureaus, what is a complaint about data furnishers, what is a question, and what is a complaint about credit bureaus that is a statutory complaint required to be processed under the FCRA. It is important to note that a “complaint” may not consist of any actual dispute on a consumer’s file.

The disputes against credit bureaus are often disputes about companies other than credit bureaus. The Consumer Complaint Database does not but should consider that credit bureaus are unlike other CFPB-regulated entities in that nationwide credit bureaus are not consumer-facing and the data they safeguard is reported to them by others, called data furnishers under the FCRA. A sizable majority of errors (88%) on credit reports come from the data furnishers to the credit bureaus but are not caused by the credit bureaus themselves.¹⁴

¹⁰ [Oversight Hearing on Data Security, Data Breach Notices, Privacy and Identity Theft](#), Before the S. Comm. on Banking, Housing, and Urban Affairs, 111th Cong. 5-6 (Sept. 22, 2005) (Testimony of Edmund Mierzwinski, U.S. PIRG on behalf of Consumer Federation of America, Consumers Union, Electronic Privacy Information Center (EPIC), Privacy Rights Clearinghouse, Privacy Times, U.S. Public Interest Research Group (U.S. PIRG), and World Privacy Forum) (“Consumer Groups”).

¹¹ PERC Study, 8.

¹² Donald S. Clark, [Report on Complaint Referral Program Pursuant to Section 611 \(e\) of the Fair Credit Reporting Act](#), Federal Trade Commission, 5 (Dec. 29, 2008).

¹³ Bureau of Consumer Financial Protection, Consumer Complaint Database, <http://www.consumerfinance.gov/complaintdatabase/> (last visited June 16, 2021). The Federal 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]”. Federal Reserve System, Office of the Inspector General, *Opportunities Exist to Enhance Management Controls Over the CFPB’s Consumer Complaint Database*, Federal Reserve & Bureau of Consumer Financial Protection, 20 (Sept. 10, 2015), <http://oig.federalreserve.gov/reports/cfpb-management-controls-consumer-complaint-database-sep2015.pdf>.

¹⁴ [Credit Reports: What Accuracy and Errors Mean for Consumers Hearing Before the Subcom. on Consumer Protection, Product Safety, and Insurance of the S. Comm. On Commerce, Science, and Transportation](#), 113th Cong. (May 7, 2013), (Testimony of Stuart K. Pratt, President and CEO, Consumer Data Industry Assn.).

The credit bureaus have robust procedures to process disputes and to do so in a timely fashion, but the CFPB has conflated disputes, which are subject to an established statutory scheme to ensure accuracy of credit report data, with complaints, which “express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer’s personal experience with a financial product or service.”¹⁵

B. Consumers are more acutely focused than ever on their financial situation throughout the pandemic

The public health crisis associated with COVID-19 also created substantial financial stress for many consumers. Lenders and creditors had to quickly adapt their procedures to quickly comply with new CARES Act relief provisions and credit reporting requirements.¹⁶ The natural, increased interest in their financial status created opportunities for consumers to submit concerns about their credit reports and the CARES Act accommodations to the nationwide credit bureaus through the CFPB complaint portal. According to the CFPB, beginning in April 2020, consumers began to submit more than 3,000 complaints mentioning coronavirus keywords nearly every month, with over 32,000 complaints mentioning coronavirus keywords in 2020.¹⁷

C. Complaints against CRAs should be considered in the context of number of consumers

During the COVID-19 pandemic, consumer complaints did increase year over year by nearly 54%,¹⁸ but the CFPB acknowledged in its annual report to Congress that complaint volume should be considered in the context of the size and market share of the companies that are under supervision. It is natural that companies with more customers may reasonably have more complaints than companies with fewer customers.¹⁹ The nationwide credit bureaus are in a unique position when compared to other financial services providers. These three bureaus compile information on well over 200 million U.S. consumers. By contrast, the largest banks in the U.S. serve far fewer consumers.²⁰ The amount of information and the number of consumers served by the credit reporting system is one of many reasonable explanations for the volume of complaints mentioning CRAs.

The nationwide credit bureaus serve more consumers than almost any other business in the U.S. These credit bureaus are intermediaries – but critical intermediaries - between consumers and their lending institutions. This role puts credit bureaus in a position that is highly visible, operationally important, well-regulated, and uniquely situated. Given this dynamic, consumer complaints to the CFPB Consumer Complaint Database are often not customer service complaints about a CRA, but rather disputes about the information on their credit report. These disputes might relate to the information provided by a lender, an outdated address, or a credit score, which is information that originates with an

¹⁵ [CFPB Company Portal Manual](#), v. 3.4 (June 2020).

¹⁶ The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), Pub. L. 116-136, , 134 Stat. 281 (2020).

¹⁷ [Consumer Financial Protection Bureau, Consumer Response Annual Report: January 1 - December 31, 2020](#). Consumer Financial Protection Bureau, March 24, 2021, p. 11.

¹⁸ Press Release, Bureau of Consumer Financial Protection, [CFPB Annual Complaint Report Highlights More than a Half-Million Complaints Received in 2020](#) (March 24, 2021).

¹⁹ Bureau of Consumer Financial Protection, [Consumer Complaint Database](#).

²⁰ The second largest bank in the U.S., Bank of America, has approximately 66 million consumer *and* small business clients. Subtracting out for small business clients leaves a much smaller number of consumer clients. [The 15 Largest Banks in the U.S.](#), (ranking Bank of America as the second largest bank in the U.S.; [Bank of America Company Overview](#)).

entity other than a consumer reporting agency. As a result, most complaints against the national CRAs in the Consumer Complaint Database should not be attributed to errors made by the consumer reporting agencies when the CFPB has given consumers the ability to dispute issues with their lenders through the bureaus.

D. The CFPB portal does not distinguish FCRA statutory disputes from complaints

Even before the complaint portal went live, the consumer reporting industry expressed concern to the CFPB regarding the characterization of information submitted to the complaint portal and the CFPB's role in publishing information without further explanation. The CFPB never properly accounted for the unique nature of credit reporting in the design or the execution of the complaint portal.

The nationwide credit bureaus do not maintain the original records, but protect information reported to them by data furnishers. Therefore, the CFPB should differentiate the disputes from the complaints submitted through its portal and track only the complaints about credit bureaus' practices following a consumer exercising his or her rights under the FCRA.

The federal Fair Credit Reporting Act ("FCRA") establishes a detailed mechanism for consumers to use when submitting a dispute about data in their files. The CFPB examines the credit bureaus' consumer services teams and is fully aware of the millions of dollars invested in working with consumers who have questions or wish to submit disputes. Therefore, the CFPB should differentiate the disputes from the complaints submitted through its portal and track only the complaints about credit bureau practices following a consumer exercising his or her right under the FCRA.

E. Credit repair organizations inundate the portal

CDIA and our members respect the CFPB's efforts to establish the portal and recognize the benefit to consumers of a central government channel to express concerns about financial service providers. Yet, the Complaint Database is being used as a tool for credit repair.

The nationwide credit bureaus indicate that a substantial number of complaints in the CFPB complaint portal appear to be associated with credit repair organizations.²¹ These credit repair organizations profess to assist consumers in "cleaning up" their credit reports for a fee by disputing negative information on consumer reports.

These credit repair outfits submit numerous disputes (not complaints, as distinguished above) to the CFPB Complaint Database on behalf of consumers to attempt to overwhelm the system and ultimately get the accurate but negative information removed from the report. This practice creates the appearance of benefiting consumers, but the benefit is skin-deep. If a credit repair organization is successful in clearing accurate, negative information from a report, that consumer may go on to add new credit obligations that the consumer might not be able to pay for. The removal of accurate but adverse consumer credit information blinds lenders and creditors to previous obligations or payment behavior, and

²¹ One of the three nationwide credit bureaus testified before Congress that more than 65% of complaints in the CFPB complaint portal appear to be associated with credit repair organizations. [*Consumer Credit Reporting: Assessing Accuracy and Compliance Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Fin. Servs.*](#), 117th Cong. 4 (May 26, 2021), (Testimony of Beverly Anderson, President, Global Consumer Solutions, Equifax Inc.).

this opaque view of a consumer's true risk puts businesses, consumers, and taxpayers in a position of holding the bag. To crack down on the use of the Complaint Database as a conduit for credit repair, the CFPB should require validation that items submitted by credit repair organizations are done so with the consent and full understanding of the consumer. To better assist consumers, lenders, consumer reporting agencies, and the financial system, we can work together to curb the activities of dishonest credit repair.

Conclusion

Thank you for seeking additional information about the accuracy of credit reporting data. With accuracy as our north star, the nationwide credit bureaus provide accurate, reliable information to lenders and creditors to propel individual consumer credit needs and the overall American economy. The nationwide credit bureaus, Equifax, Experian, and TransUnion, help millions of consumers obtain the credit they need for a new car, a new home, to send their kids to college, and much more. The data provided by the nationwide credit bureaus have been proven, by empirical, third-party validated studies, and in the daily marketplace, to be highly accurate and predictive.

As your committees may know, the credit reporting system includes not just credit bureaus. There are three other key members of the credit reporting ecosystem: consumers, who are empowered with legal rights; and data furnishers and users, both of whom have legal obligations to which they must adhere. Finally, there are credit bureaus which have extensive legal obligations, some of which are noted in this letter. CDIA hopes that your committees, when looking at credit bureaus, also consider taking a wider, holistic view of the consumer reporting system. CDIA welcomes the opportunity to serve as a resource to your committees as you continue your review of the credit reporting system.

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Ellman', is written over a light blue circular stamp.

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