



Consumer Data Industry Association  
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February 28, 2023

The Honorable Patrick McHenry  
Chairman  
House Committee on Financial Services  
Washington, D.C. 20515

The Honorable Maxine Waters  
Ranking Member  
House Committee on Financial Services  
Washington, D.C. 20515

Re: H.R. 1165, the Data Privacy Act of 2023

Dear Chairman McHenry and Ranking Member Waters:

I write on behalf of the Consumer Data Industry Association ("CDIA") concerning H.R. 1165, the Data Privacy Act of 2023 ("DPA" or "Act").<sup>1</sup> We applaud your work towards a strong national, preemptive financial privacy law because consumers, especially those who have no privacy protections, deserve appropriate national privacy safeguards.

In keeping with the goal of protecting the unprotected, we respectfully request amendments to the DPA to clarify the Act's intent to not interfere with the long-standing provisions of the Fair Credit Reporting Act (FCRA), a national, preemptive privacy law.

First enacted in 1970 and updated many times since, the FCRA is a critical law to guide businesses, consumers, federal and state regulators, and law enforcement as they move through the consumer reporting ecosystem. Federal Trade Commission ("FTC") Chairman Tim Muris said that "the FCRA is an intricate statute that strikes a fine-tuned balance between privacy and the use of consumer information. At its core, it ensures the integrity and accuracy of consumer records and limits the disclosure of such information to entities that have 'permissible purposes' to use the information."<sup>2</sup> The FCRA and its array of regulations imposes obligations on CRAs, furnishers, and users, and emboldens consumers with rights. This statute incorporates fair information principles, including consumer rights to access and correct information. The law has accuracy, security, and disclosure obligations, limits on data use, and it empowers consumers, the FTC and CFPB, and state attorneys general to hold CRAs, users, and furnishers accountable in federal or state court. In addition, the FCRA offers an appropriate level of consumer control where consumers can, for example, opt out of pre-

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<sup>1</sup> 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,

<sup>2</sup> FTC Chairman Tim Muris, October 4, 2001 before the Privacy 2001 conference in Cleveland, Ohio.

approved credit offers and freeze access to their credit files.<sup>3</sup> The FTC called the FCRA “an important tool that provides consumers with the right to access their own data that has been used to make such decisions, and if it is erroneous, to correct it.”<sup>4</sup>

The FCRA is a time-honored, time-tested national privacy law. Since the DPA is not intended to interfere with the FCRA, we respectfully request that the DPA be amended to add additional clarity to this intent.

Thank you for your leadership in proposing a national, preemptive financial privacy law. CDIA and our members look forward to working with you as this bill moves through the legislative process.

Sincerely,



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

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<sup>3</sup> 15 U.S. Code §§ 1681b(e), 1681c-1(i).

<sup>4</sup> Protecting Consumer Privacy in an Era of Rapid Change, Fed. Trade Comm., March 2012, <https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-report-protecting-consumer-privacy-era-rapid-change-recommendations/120326privacyreport.pdf>.