



Consumer Data Industry Association
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June 17, 2020

The Honorable Nancy Pelosi, Speaker
The Honorable Kevin McCarthy, Republican Leader
United States House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy:

As the House prepares to consider HR 5332, the *Protecting Your Credit Score Act of 2019*, CDIA¹ and its members wanted to take this opportunity to express our opposition to the bill.

We believe that this bill will have negative impacts on the American consumer. Over the last decade Congress has prioritized the “ability to repay” as the most important part of underwriting a financial product, to fight predatory lending and ensure that consumers are not able to borrow more than they can afford. This bill will make it harder for lenders to determine whether a consumer has an ability to repay, increase loan losses and ultimately result in higher prices, especially for those who previously received the best prices on loan products after a lifetime of on-time payments.

The bill: could make the cost of borrowing more expensive and limit access to credit; could introduce new threats to consumers’ information and physical security; and introduces unnecessary and expensive burdens into the credit reporting system, making it harder for consumers disputes to be processed in a timely fashion.

The bill could make the cost of borrowing more expensive and limit access to credit

Section 4 of the bill could lead to higher costs of credit for the overall market, and specifically for consumers who pay their bills on time every month. This section of the bill would allow consumers who have not paid their bills on time to continue disputing information, even if the account is verified as accurate. This would increase the likelihood that that accurate, though negative information, will be excluded from credit scores, thereby impeding lenders from making adequate risk decisions.

This bill could introduce new threats to consumers’ information and physical security

Section 6 would require CRAs to effectively *mail* a credit report to a consumer every time an adverse action occurs in a credit transaction. If, for example, a consumer applies for a

¹ The Consumer Data Industry Association (CDIA) is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check 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.

mortgage and receives a rate higher than the lowest possible rate due to the consumer's higher credit utilization rate, then each credit bureau would have to physically mail a report to the consumer, whether the consumer requested it or not. And if the consumer applied to several mortgage companies, the CRAs would have to mail the report to the consumer's last known address each time. This would create data security issues, as thousands of credit reports would be sent, by mail, to people who didn't ask for them, don't want them, or don't need them. Also, tens of millions of consumers move each year, increasing the likelihood that credit reports would fall into the hands of persons other than the intended consumer. Consumers today can receive free credit reports as often as every week and have additional opportunities to get their credit report under certain circumstances. CRAs should not be mailing millions of credit reports with very sensitive information to people who did not ask for them.

Section 2 of the bill could also harm consumers' personal physical security. This section includes language giving consumers new rights to opt out of sales of non-credit report information. The identity information that also appears in a credit report is critical for companies that need to confirm identity, alternate names, and previous addresses, such as criminal-background screeners. The effect of this provision would be to allow someone to hide their relevant criminal history from employers, volunteer agencies or other users of criminal history reports. For example, someone convicted of elder or child abuse could simply move to a new jurisdiction, opt out of non-credit report sales and apply for jobs with nursing homes or child-care centers. Today, when someone like this applies for a job and discloses neither their old address nor the criminal conviction, the background screener would purchase an address history from a credit bureau to identify jurisdictions in which to search for records. While this method is not fool proof, it is the industry standard and results in detection rates comparable to fingerprinting by the FBI. Without it, employers, volunteer agencies, youth sports leagues and other legitimate users of background screening would be at the mercy of any convicted criminal who is willing to lie on an application.

The bill introduces unnecessary and expensive burdens into the credit reporting system, making it harder for consumers disputes to be processed in a timely fashion

The addition of a new "consumer portal," also in Section 2, would create an unnecessary new government-mandated website for consumers when existing options for consumers already exist. Consumers currently can visit any of the websites of the nationwide CRAs and file a dispute, set a security freeze and exercise other rights that are guaranteed by the Fair Credit Reporting Act. This provision is unnecessary and could create additional data security issues.

Consumers who pay their bills on time would also be the ones most impacted by the bill's requirement for full nine-digit Social Security Number (SSN) matching. The FTC studied this matching topic in an exhaustive report directed by the 2003 FACTA Act, and found that matching nine digits of the SSN is not a viable solution, as it would not result in greater accuracy of credit reports, but it would lead to fewer consumers being approved for credit. By denying CRAs the ability to anticipate and fix transcription errors, consumers could end up having multiple fragmentary credit reports, each one tied to a given SSN. Then, when applying for new credit, a lender will not be able to see the full picture of the individual, meaning that the

consumer who has paid their bills on time every month won't receive the benefit accrued during their many years of hard work. And some consumers will find strangers' files associated with their SSN, complicating the lending process. The Consumer Financial Protection Bureau supervises and examines the nationwide CRAs and has not raised this issue as a concern; this section of the bill will harm, not help, consumers.

We would also note that Section 5 of the bill includes injunctive relief that exposes users of credit reports to private enforcement for consumer notices and red flags. This would be a significant change in practice that would expose lenders to new liabilities from the trial bar.

This bill was the subject of a great deal of negotiation and discussion with Representative Gottheimer, the bill sponsor, before the Financial Services Committee passed the bill. We appreciate his spirit of cooperation, but unfortunately the bill before the House falls short of its goals to strengthen the consumer credit market and protect consumer credit scores.

Sincerely,



Francis Creighton
President & CEO

cc: The Honorable Maxine Waters, Chairwoman, Committee on Financial Services
The Honorable Patrick McHenry, Ranking Member, Committee on Financial Services
The Honorable Josh Gottheimer