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Ms. Chi Chi Wu
National Consumer Law Center
7 Winthrop Square
Boston, MA 02110-1245

Dear Ms. Wu:

The Consumer Data Industry Association (“CDIA”), Equifax, Experian, and TransUnion strongly support and are actively advancing financial inclusion. Equifax, Experian, and TransUnion have a strong track record of assisting consumers in languages other than English. CDIA is writing in response to the letter the National Consumer Law Center (“NCLC”) and several other organizations¹ sent on October 19 to the nationwide consumer reporting agencies and CDIA.² This letter highlights the credit bureaus’ consumer assistance and financial inclusion efforts and encourages you to join us in lowering the barriers to alternative data reporting. This letter also outlines the legal obstacles that limit the nationwide consumer reporting agencies’ ability to provide credit reports in languages other than English.

The COVID-19 pandemic has exposed substantial economic dislocation in this country, which is why the nationwide credit bureaus have stepped up their efforts to serve consumers. Among other things, the bureaus are making additional credit reports available to consumers for free, and they are offering additional, helpful information to consumers on their websites. The disruption caused by the pandemic and the immersive media around racial injustice reminds us of how proud the nationwide credit bureaus are of their support financial inclusion work. We are also reminded that we cannot let up on our industry’s work to bring more consumers into the financial mainstream.

¹ National Consumer Law Center (on behalf of its low-income clients), Americans for Financial Reform Education Fund, Community Service Society of New York, Consumer Action, Consumer Federation of America, Consumer Reports, Connecticut Fair Housing Center, Dēmos, Empire Justice Center, Jacksonville Area Legal Aid, Inc., National Association of Consumer Advocates, National Fair Housing Alliance, National Housing Resource Center, Public Good Law Center, Public Justice, Texas Appleseed, Tzedek DC, U.S. PIRG.

² 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 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.

1. Equifax, Experian, and TransUnion strongly support and are actively advancing financial inclusion.

Our consumer reporting agency members, including the three nationwide credit bureaus, have invested, and continue to invest, substantial time, money, and energy in bringing more consumers into the financial mainstream. There are still too many un- and under-banked consumers in the United States. Our members work on their own and with governments, businesses, and nonprofits, to expand access to a variety of data sources that have long been held to be the fulcrums to lifting consumers from credit invisible to visible. This data includes rental, utility, and telecom payments. Some of the obstacles to alternative data reporting are operational, statutory, and regulatory. Barriers to alternative data reporting include the high operational costs and financial liability under the FCRA. Sometimes statutes and rules prohibit the reporting of utility data to consumer reporting agencies.³ Sometimes statutes mean well in their attempts to encourage rental reporting, but while attempting to do good, they impose so many burdens on landlords that rent reporting may be limited.⁴ We hope NCLC and its consumer group partners will join us in our quest to lower barriers of entry for bringing more alternative data into the credit reporting system, which will help to fulfill the promise of credit inclusion.

The pace of alternative data reporting is slow and steady, but it is not fast enough. To serve more consumers more quickly, our members are also looking into new and innovative ways to mainstream consumers by internal innovation and external partnerships. There is great promise, for example, in a combination of sources of information, including self-reported data.

2. Equifax, Experian and TransUnion have a strong track record of assisting consumers in languages other than English.

The nationwide credit bureaus have spent significant resources over decades, building their systems and developing ways to serve consumers in languages other than English through live operator translations or other systems. Consumers calling the nationwide credit bureaus to manage a security freeze, place a fraud alert, obtain a copy of a credit report, or initiate a dispute can choose to do so in Spanish.

While the credit bureaus are happy to assist consumers in languages other than English, consumer education cannot come solely from credit bureaus, and credit bureaus cannot be the sole focus of proposals for mandating speech in languages other than

³ *Eg.*, Conn. Gen. Stat. § 16-262d, Tex. Utilities Code. § 17.152.

⁴ *Eg.*, Cal. Civ. Code .§ 1954.06.

English.⁵ To best serve immigrant communities, we must harness the power of community groups who are far better positioned to help translate and interpret credit reports into languages other than English. We need to rely on the core competencies that community service organizations have, since it is they, and not the credit bureaus, that are far more attuned to their communities' language, culture, and history.

3. Absent changes to the substantial liability provisions under the FCRA, credit reports in languages other than English opens the door to liability for innocent, honest translation errors

Respectfully, the nationwide credit bureaus are unable to fulfill the request to provide consumers with the free annual file disclosure required by the Fair Credit Reporting Act ("FCRA") in languages other than English. Providing these reports could put the credit bureaus into conflict with the requirements imposed on them by the FCRA. Providing these reports could potentially undermine the accuracy requirements of the FCRA. Conflicts with the FCRA and reduced accuracy would not help consumers and could expose consumer reporting agencies to substantial liability.

A few years ago, the Federal Trade Commission ("FTC") looked at requiring credit reports to be in Spanish, but then abandoned the idea after it became clear how complicated a translation mandate was; how high the liability would be for minor, technical errors; and how consumers were already served by community groups. The FTC said, in 2004, that

[m]any consumer advocacy groups and a state official suggest that the centralized source be required to provide instructions in languages, other than English, that are spoken by a substantial number of consumers in the United States...Having carefully considered these comments, the [FTC] has determined not to require instructions in other languages. The Commission believes that requiring multi-language translations...would impose significant additional burden on the nationwide consumer reporting agencies at a time when they will already be responding to the multiple and varied...obligations [under federal law].⁶

⁵ A New Jersey law mandating credit reports be provided to consumers in Spanish and ten other languages beyond Spanish is presently under challenge in federal court in New Jersey. This law, among other things, violates the First Amendment. There are few laws, even in New Jersey, that require government agencies, transit authorities, banks, utilities, insurance companies, or hospitals, to communicate with consumers in languages other than English, let alone eight or eleven other languages.

⁶ 69 Fed. Reg. at 35476.

The complexities and burdens the FTC noted in 2004 are only magnified today by the increasingly diverse population, and exponentially more complicated by your request to provide credit reports in not just Spanish, but in at least seven other languages. When the FTC and CFPB took up the issue again at a workshop in October 2014, no recommendations were made that necessitated credit reports be disclosed in languages other than English.

4. Conclusion

Thank you for your letter of October 19. The nationwide credit bureaus, Equifax, Experian, and TransUnion, are proud of their work in promoting financial inclusion efforts. We hope that NCLC and the other organizations that signed the letter to CDIA, Equifax, Experian, and TransUnion will join us in working toward lowering the barriers to alternative data reporting. We respect and honor the hopes and dreams of consumers who speak a language other than English. The credit bureaus are proud to serve them, and where their linguistic and cultural needs exceed the authority given to the credit bureaus, we are comforted knowing there are community organizations and religious institutions to step forward. Working together is the best way to give consumers the help they need.

Sincerely,



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

cc: The Honorable Kathy Kraninger, Director, Consumer Financial Protection Bureau