

Consumer Reporting Rule SBREFA Panel: Pre-Panel Meetings

CFPB | October 11 & 12, 2023



Privacy Act Statement (5 U.S.C. 552a(e)(3))

The information you provide the Consumer Financial Protection Bureau (CFPB) through your participation as a small entity representative (SER) on a Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel is used to support SBREFA rulemaking activities.

Your written feedback will be tied to your personally identifiable information (PII) that you submit such as your name, organization, and business contact information and will be shared with the public in a published report. With your consent, the CFPB will also capture audio and video recordings of your responses as you participate during the pre-panel and panel sessions for transcription purposes. Recorded session feedback will be aggregated and included in a published report but will not be linked to your PII.

Information collected will be treated in accordance with the System of Records Notice (SORN), CFPB.017 - Small Business Review Panels and Cost of Credit Consultations. Although CFPB does not anticipate further disclosing the information provided, it may be disclosed as indicated in the Routine Uses described in the SORN.

This collection of information is authorized by Public Law 111-203, title X, sections 1011 and 1012, codified at 12 U.S.C. 5491 and 5492. Public Law 96-354, as amended by Public Law 104-121 and Public Law 111-203, codified at 5 U.S.C. 601 et seq.

Participation on the SBREFA panel is voluntary. However, if you do not consent to the recordings, you will not be able to participate in the session.

SBREFA Meeting Logistics

Connecting to audio

- Use your computer for audio with a headset to reduce background noise. Or have WebEx call your phone.
- If you prefer to connect to audio only:

October 11, 2023

US Toll Call

+1-404-397-1590

Access code

27 67 303 3487

Passcode

63994564

October 12, 2023

US Toll Call

+1-404-397-1590

Access code

27 66 242 7409

Passcode

73845375

Mute

All **attendees are automatically muted** upon entry.

Manage your view

Click on “Layout” located to the left of the Participants view to change your view.

Speakers

If you are a presenter or panelist and are not speaking, **please mute and turn off your camera.**

Closed Captions

For Webex generated Closed Captioning, click the CC button at the lower left corner of the Webex window.

Technical Issues

- If you experience audio problems, click the “Audio & Video” button in the top toolbar.
- If you are having technical difficulties, please send a Chat to the “Host” or email Isabel Bailey at Isabel.Bailey@cfpb.gov.

Ask a question

- During the session, if you would like to ask a question, please raise your hand. The raised hand function can be found on the right-hand side of your screen. Your question will be answered in the order in which your hand was raised. Please **turn off your raised hand** once your question has been answered.
- If you prefer to ask your question in the **Chat**, it can be found on the lower right-hand side of the screen. Please address your question to “All Panelists”.

Pre-Panel Meeting # 1

Pre-Panel Meeting # 1 Agenda

Topic

- Welcome
- Meeting Etiquette and Reminders
- SBREFA Overview
- Schedule of Meetings
- Potential Impacts on Small Entities

Meeting Etiquette and Reminders

- Guest Participation

Guest Participation

- Each SER may invite one guest to attend the SBREFA pre-panel and panel meetings in “listen only” mode
 - Your guest might be a technical expert or someone else whom you’d like to consult with during the meetings
- If you have a guest who would like to attend the meetings and you haven’t already provided their information via the registration, please send the following to CFPB_consumerreporting_rulemaking@cfpb.gov
 - Name
 - Title
 - Organization
 - Contact information (email, phone)
- Guests must register for each meeting using the same links provided to you in our email last week.

SBREFA Overview

- What is SBREFA?
- What is the role of a SER?
- Submitting written feedback
- SER Introductions

What is SBREFA?

What is SBREFA?

- SBREFA stands for the Small Business Regulatory Enforcement Fairness Act of 1996

What does SBREFA require?

- SBREFA requires Small Business Advocacy Review panels to be convened to review certain rules being considered for their effects on small entities
 - Only applies to certain federal agencies
 - Only applies to rules being considered that would have a *significant economic impact* on a *substantial number of small entities*

Who is involved?

- Panel, chaired by a representative from the covered agency, and includes the Chief Counsel for Advocacy with the Small Business Administration (SBA) and the Administrator of the Office of Information and Regulatory Affairs
- Panel meets with representatives from directly regulated small entities (SERs)

What is the role of a Small Entity Representative (SER)?

Why are SERs important?

- Provide input on anticipated compliance requirements and costs of the proposals under consideration
- Provide advice on potential regulatory alternatives
- Provide feedback on the potential impact of the proposals under consideration on the cost of credit for small entities
- Allow us to leverage your experience and expertise

How can SERs accomplish these goals?

- Provide input during the panel meetings
- Provide written feedback for the SBREFA Panel Report

Submitting Written Feedback

SERs are encouraged to submit written feedback. Your feedback will help inform the written SBREFA panel report.

Due Date: November 6, 2023

Submit To: CFPB_consumerreporting_rulemaking@cfpb.gov

Reminders about SER written feedback:

- Will be appended to the SBREFA panel report, which will be made part of the public rulemaking docket.
 - If you are considering submitting proprietary or confidential business information, please contact us in advance to discuss whether and how that information should be provided.
- Will be shared with SBA Office of Advocacy and OIRA.

Who are the SERs?

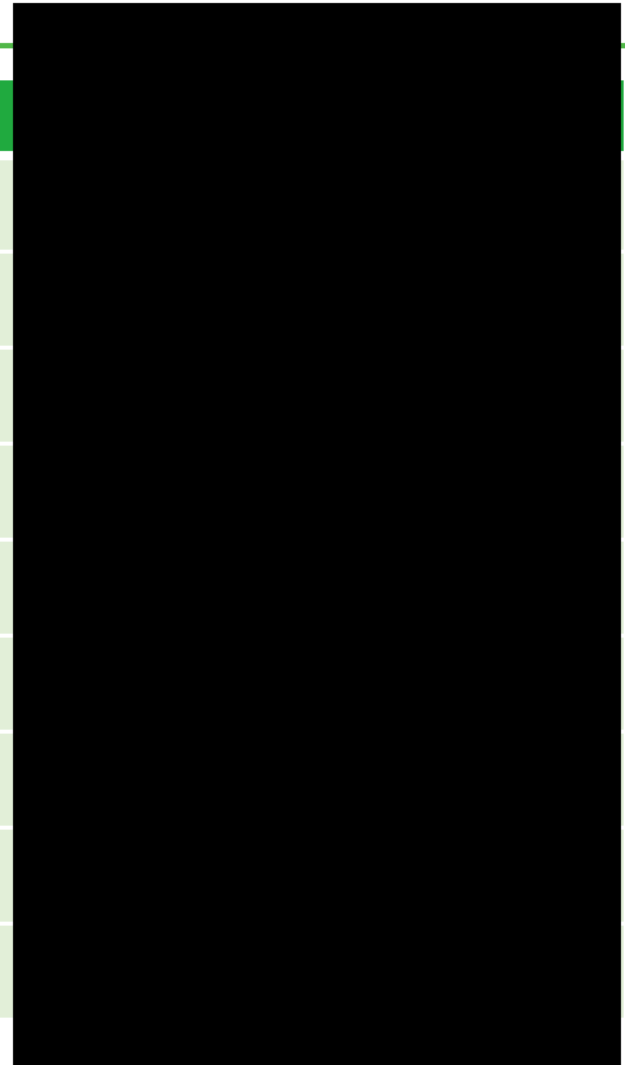
- SERs are from entities that fit within “small entity” definitions under the Regulatory Flexibility Act and SBA’s size standards:
 - Depositories: \leq \$850 million assets
 - Non-depositories: Annual receipts generally \leq \$47 million
- SERs are from a variety of entity types (some of which may be overlapping):
 - Financial institutions
 - Consumer reporting agencies (with different areas of focus)
 - Medical debt collectors
 - Data brokers (with different business models)
- SERs are members of a range of trade associations

SER Introductions

- Name
- Brief overview of your company
 - Size
 - Type(s) of entity
 - consumer reporting agency (CRA)
 - furnisher to CRAs
 - user of consumer reports
 - data broker
 - medical debt collector
 - How your company works with consumer reports
 - What markets you serve

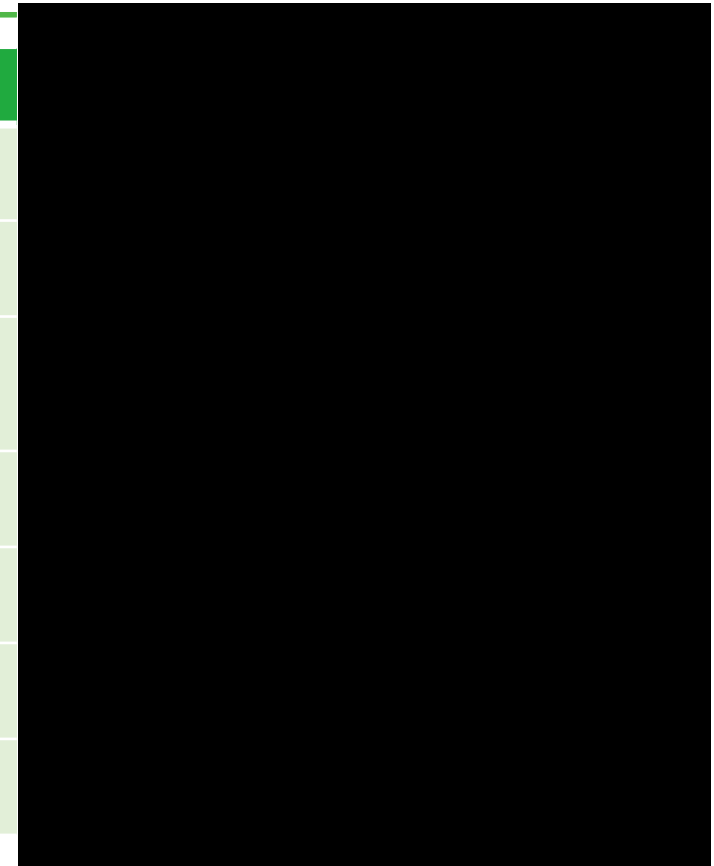
SERs

Entity	Representative	Type
MicroBilt	Walt Wojciechowski, CEO	Consumer Reporting Agency
ACRANet	Krystal Pekala, Compliance Manager	Consumer Reporting Agency
InfoMart	Tim Gordon, Chief Compliance Officer	Consumer Reporting Agency
Credit Bureau of Council Bluffs	Heather Russel-Schroader	Consumer Reporting Agency
Argyle	Nick Lawson, General Counsel	Data Broker
Method Financial	Phil Chang, General Counsel	Data Broker
Pinwheel	Mara Berman, Commercial Counsel	Data Broker
FinLocker	Bryan Garcia, Chief Technology Officer	Data Broker
Aidem US, Inc.	Gio Sollazzo, CEO	Data Broker



SERs

Entity	Representative	Type
New Market Bank	Jeff Jacobson, VP/Compliance Officer	Bank
First Security Bank & Trust	Evelyn Schroeder, VP, Compliance Manager	Bank
Raymond Federal Bank	B. Nichoel Casey, JD, President & Chief Executive Officer	Bank
Credit Union of New Jersey	Christopher Hartsough	Credit Union
Arlington Community Federal Credit Union	Jim Wilmot, Chief Lending Officer	Credit Union
Gulf Coast Collection Bureau, Inc.	Jack W. Brown III	Debt Collector
Collection Bureau Services, Inc.	Jen Whipple, CEO	Debt Collector



Schedule of Meetings

- Pre-panel meetings
- Panel meetings

Schedule of Meetings

Pre-Panel Meetings

- Pre-Panel Meeting 1 – October 11, 2023, 1:00 – 3:00 PM EST
Subject: SBREFA Overview, Cost Information to Provide
- Pre-Panel Meeting 2 – October 12, 2023, 1:00 – 3:00 PM EST
Subject: SBREFA Outline and Discussion
 - Disputes

Panel Meetings

- Panel Meeting Day 1 – October 18, 2023, 1:00 – 5:00 PM EST
Subject: SBREFA Outline and Discussion
 - Definitions of Consumer Report and Consumer Reporting Agency
 - Medical Debt Collection Information
- Panel Meeting Day 2 – October 19, 2023, 1:00 – 5:00 PM EST
Subject: SBREFA Outline and Discussion
 - Permissible Purposes
 - Implementation Period
 - Potential Impacts on Small Entities

Potential Impacts on Small Entities

Cost Information to Provide

Baseline Operating Costs

- Current staff, system in place, and business costs?

One-Time Costs

- Operation or system enhancements?
- Training?
- Different for new entrants?

Ongoing Costs

- Compliance staff and system?
- Different for new entrants?

Other Costs or Impacts

- Impacts on revenue or business lines?
- Availability of credit to small entities?

Pre-Panel Meeting # 1: Closing Remarks

Pre-Panel Meeting # 2

Pre-Panel Meeting # 2 Agenda

Topic

- Proposals under consideration regarding disputes

Proposals Under Consideration

Disputes

- Disputes involving legal matters
- Disputes involving systemic issues

Proposal Under Consideration – Disputes Involving Legal Matters

Relevant FCRA sections:

- FCRA section 611(a)(1)
 - Allows consumers to file disputes with CRAs and requires CRAs to take certain actions in response to such disputes
- FCRA sections 623(a)(8) and 623(b), as well as Regulation V
 - Allow consumers to file disputes with furnishers of disputed information and require furnishers to take certain actions in response to such disputes (and to disputes received through CRAs).

Proposal under consideration:

- The CFPB is considering codifying its previously stated interpretation that the FCRA does not distinguish between legal and factual disputes and, accordingly, that “legal disputes” are not exempt from the FCRA’s requirements regarding disputes
- For example, the CFPB has previously stated the FCRA dispute provisions cover:
 - Disputes regarding whether a reported debt is collectible under state foreclosure law
 - Contractual liability disputes regarding obligations to pay

Discussion Questions – Disputes Involving Legal Matters

General Questions

- Q1.** How, if at all, will the proposal under consideration require your firm to change its operations, products, or services?
- Q2.** What do you anticipate will be the initial and ongoing costs to your firm, if any, of complying with the proposal under consideration?
- Q3.** What aspect or aspects of complying with the proposal under consideration would be the most challenging?
- Q4.** What alternative approaches, if any, should the CFPB consider in lieu of the proposal under consideration?

Proposal-Specific Questions

- Q30.** Do you have knowledge about the practice of distinguishing between disputes classified as relating to legal issues and those classified as relating to factual issues, and if so, how do those that engage in this practice distinguish these types of disputes? Do they process or handle the disputes differently, and if so, what are the differences?
- Q31.** What portion of your firm's annual disputes relate to legal issues, and what policies and procedures are in place related to disputes your firm classifies as relating to legal issues?

Day 2 Mid-Session Break

Proposal Under Consideration – Disputes Involving Systemic Issues

Relevant FCRA sections:

- FCRA section 611(a)(1)
 - Allows consumers to file disputes with CRAs and requires CRAs to take certain actions in response to such disputes
- FCRA sections 623(a)(2), 623(a)(8), and 623(b), as well as Regulation V
 - Allow consumers to file disputes with furnishers of disputed information and require furnishers to take certain actions in response to such disputes (and to disputes received through CRAs).

Proposal under consideration:

- The CFPB is considering a proposal to address what CRAs and furnishers must do, pursuant to their FCRA dispute obligations, upon receiving a dispute indicating a systemic issue that could be affecting multiple consumers. The CFPB is considering, for example, whether to:
 - Require furnishers, CRAs, or both to determine, as part of their investigation, whether there is a systemic issue and to correct any inaccurate reporting on behalf of all affected consumers
 - Specify how the results of any such investigation should be communicated (*e.g.*, notifying other consumers who might be affected)
 - Provide a rubric or template consumers could use to submit disputes relating to systemic issues affecting multiple consumers, to facilitate submission of such disputes

Discussion Questions – Disputes Involving Systemic Issues

General Questions

- Q1.** How, if at all, will the proposal under consideration require your firm to change its operations, products, or services?
- Q2.** What do you anticipate will be the initial and ongoing costs to your firm, if any, of complying with the proposal under consideration?
- Q3.** What aspect or aspects of complying with the proposal under consideration would be the most challenging?
- Q4.** What alternative approaches, if any, should the CFPB consider in lieu of the proposal under consideration?

Proposal-Specific Questions

- Q32.** How might the CFPB define “systemic” issues for purposes of the proposals it is considering? What may be the cause(s) for a furnisher or CRA to have erroneous reporting for multiple consumers of the same type (*e.g.*, issues with common processes, policies and procedures, infrastructure limitations, training)? How does your firm become aware of systemic issues that cause consumer reporting errors?

Discussion Questions – Disputes Involving Systemic Issues

Proposal-Specific Questions

- Q33.** If furnishers or CRAs (or both) investigate and address systemic issues that may be causing consumer reporting errors affecting multiple consumers, based upon a single consumer's notice of dispute, what kind of notice should go to other potentially similarly situated consumers affected by the systemic issue? At what point(s) of the process? What should that notice(s) say?
- Q34.** What kind of information would be helpful for a consumer to include in a dispute notice to your firm to determine whether an error may be caused by a systemic issue?

Pre-Panel Meeting # 2: Closing Remarks

Thank you!