

Congress of the United States
Washington, DC 20515

April 4, 2024

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Dear Director Chopra:

As you commence a rulemaking related to data brokers under the Fair Credit Reporting Act ("FCRA") and Regulation V, we write to urge you to ensure your effort supports the ability of financial institutions to protect consumers from identity fraud and fulfill other identity-related federal regulatory obligations.

While the stated aim of your Agency's Small Business and Regulatory Enforcement and Fairness Act ("SBREFA") outline is to curtail the practices of certain "data brokers" and marketing activities, the proposal suggests that you may intend to expand the FCRA to cover both the data used by banks and credit unions to detect and prevent identity fraud, along with the providers of fraud and identity-related services. With the FTC reporting 1.4 million identity theft complaints in 2023, an all-time high, we are concerned about the consequences of such a policy change and how it could adversely impact consumer protection and law enforcement tools.

We strongly support the intent of the FCRA to provide a fair and transparent set of rights to consumers, and to set appropriate regulatory safeguards for the businesses that maintain information used to evaluate credit-worthiness. However, subjecting identity verification and fraud prevention data -- such as credit header data and other data sources -- and the technology that relies on this data to that same regulatory regime could create burdens that impede anti-fraud and identity verification efforts.

As you know, the FCRA provides consumers numerous rights at various stages of the extension of credit. All those important protections apply to actual consumers whose identities are known and verified, and who are intentionally seeking credit. Financial institutions undertake fraud detection and identity verification activities before they know whether the person applying for a financial product is who they say they are. Congress has long recognized that these processes are separate and distinct from evaluations of credit-worthiness and other FCRA-specific requirements, and in fact has passed various laws to govern those activities, such as the Bank Secrecy Act and Gramm-Leach-Bliley Act. It is important that any rulemaking recognizes these

distinct processes and ensures financial institutions and their partners have clear legal frameworks to follow that protect consumers' data and prevent fraud.

In addition to these distinct frameworks, fraud prevention data and activities have been exempted in both Congressional and regulatory contexts. In fact, Congress has explicitly stated that fraud prevention data and activities should be treated differently under consumer protection-related regulatory efforts. The CFPB followed this directive when it exempted fraud-related data and activities in recent regulatory actions related to Sections 1034(c) and 1033, following the clear direction Congress laid out in the Dodd-Frank Act. We believe it is important that your forthcoming rulemaking related to FCRA and data brokers continue to adhere to this precedent.

We share the view that fraud detection and identity verification are important consumer protection and law enforcement tools. They ensure that consumers, especially elderly and other vulnerable populations, are not taken advantage of, and ensure the integrity and trust in our financial system. We appreciate your attention to these concerns and look forward to further discussions on policies to protect consumers from identity fraud.

Sincerely,



Scott Fitzgerald
Member of Congress



Brittany Pettersen
Member of Congress



French Hill
Member of Congress



Gregory Meeks
Member of Congress