WHO'S KEEPING SCORE? HOLDING CREDIT BUREAUS ACCOUNTABLE AND REPAIRING A BROKEN SYSTEM

HEARING

BEFORE THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

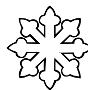
ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

FEBRUARY 26, 2019

Printed for the use of the Committee on Financial Services

Serial No. 116–3



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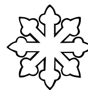

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WHO'S KEEPING SCORE? HOLDING CREDIT BUREAUS ACCOUNTABLE AND REPAIRING A BROKEN SYSTEM

Tuesday, February 26, 2019

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the committee] presiding.

Members present: Representatives Waters, Maloney, Velazquez, Sherman, Meeks, Clay, Scott, Green, Cleaver, Perlmutter, Foster, Beatty, Heck, Vargas, Gottheimer, Gonzalez of Texas, Lawson, San Nicolas, Tlaib, Porter, Axne, Casten, Pressley, Ocasio-Cortez, Wexton, Lynch, Gabbard, Adams, Dean, Garcia of Illinois, Garcia of Texas, Phillips; McHenry, Wagner, Posey, Luetkemeyer, Huizenga, Duffy, Stivers, Barr, Tipton, Williams, Hill, Emmer, Zeldin, Loudermilk, Mooney, Davidson, Budd, Kustoff, Hollingsworth, Gonzalez of Ohio, Rose, Steil, Gooden, and Riggleman.

Chairwoman WATERS. The Committee on Financial Services will come to order. Without objection, the Chair is authorized to declare a recess of the committee at any time.

Today's hearing is entitled, "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System." I now recognize myself for 4 minutes to give an opening statement.

Today, this committee convenes for a hearing on repairing the nation's broken credit reporting system, and holding the major consumer credit bureaus accountable. In October of 2017, committee Democrats convened a Minority Day hearing on ensuring the integrity of our country's consumer reporting system, and safeguarding consumer data. As ranking member of the committee, I invited chief executive officers of Equifax, Experian, and TransUnion to that hearing. All three declined to appear and testify.

I must share that since that time, I have met with at least two of the chief executive officers. So this hearing with the CEOs from the major credit bureaus is long overdue.

In 2017, Equifax experienced a data breach that exposed the sensitive, personally identifiable data of approximately 148 million individuals, around half of all Americans.

In 2015, Experian discovered a breach that affected 15 million consumers who applied for T-Mobile service.

In 2013, all three major consumer credit bureaus, including TransUnion, identified unauthorized access to sensitive data that they held relating to high-profile individuals.

Consumers did not choose to entrust these companies with their personal information. And they do not have the option today of choosing a different company to maintain their consumer credit data records by having their information deleted from the major credit bureaus' databases, even following these egregious breaches.

To make matters worse, three of the major consumer credit reporting bureaus have used this breach of consumer data and consumer trust to sell products they themselves are marketing as identity theft protection. It certainly appears they are capitalizing on consumers' fear and desperation despite the fact that there are many free tools that consumers can use to protect their credit.

These data breaches are deeply troubling because credit bureaus collect reams of information on millions of Americans. The more information they collect, the more people are at risk. When that information is not properly protected, even worse than credit bureaus vacuuming up of consumer data is a lack of control that consumers have over this data. If a consumer is dissatisfied with one credit bureau, they can't take their business to a competitor.

To credit reporting bureaus, consumers aren't consumers; they are commodities. This commodification of consumers and their personal data is a core reason why our nation's consumer credit reporting system is broken. In this broken system, credit reports are routinely filed with errors that are difficult for consumers to correct, negative information stays on for periods much longer than its predictive value, and medical debt continues to harm the credit standings of otherwise creditworthy consumers. These problems are pervasive in the credit reporting system.

Credit ratings directly impact how much we pay for a car loan, whether or not we can get a mortgage, and, in some cases, whether or not we can get a job. America's consumers deserve better than this. That is why, for several Congresses, I have put forth my bill, the Comprehensive Consumer Credit Reporting Reform Act. My bill is intended to repair the existing system by shifting the burden of removing mistakes from credit reports onto credit bureaus and furnishers and away from consumers, placing limits on credit checks for employment purposes, and reducing the time period that negative items can stay on credit reports, among other reforms.

Today, we will also discuss legislation to protect innocent consumers who have been affected by the Federal Government shutdown from having their credit damaged. While these are all critical reforms to the existing system, I believe that we need to ask whether the system is so beyond repair that we need to completely rebuild the entire consumer credit reporting sector to truly put consumers first.

With that, the Chair now recognizes the ranking member of the committee, the gentleman from North Carolina, Mr. McHenry, for 5 minutes for an opening statement.

Mr. McHENRY. I want to thank the chairwoman for yielding, and I want to thank you for holding this hearing.

I do agree with you, Chairwoman Waters, that this hearing is a long time in coming, and is necessary.

The system is broken. While the credit scoring system provides us with a foundation, and it allows millions of Americans to access credit quickly and efficiently, the credit reporting system is in need of major repair.

The Fair Credit Reporting Act (FCRA)—the principal statute of governing the industry and I would dare say creating and enhancing the standing of the three before us today—was written for another time, a pre-internet era. There is no better example than the oligopoly that was created than the three that are sitting before us here today.

Our credit reporting system should be well-served by increased competition. It should allow for innovation that mirrors the changes we see in the financial services space generally and society more dramatically. The dispute resolution process should be more consumer-friendly, and more user-friendly. A clear regulatory regime should be instituted. The chairwoman and I have drafted legislation over the years to modernize FCRA and create a better process for consumers.

While our approaches may be very different, we both know that we need to find a way that works better for the people we represent. Part of our focus should be to understand what happens to the massive amount of data that flows into credit bureaus.

The reality today is that if you have a credit file, your information probably is on the dark web. That is a result of the Equifax data breach of last year which put two out of every five American's most sensitive personally identifiable information at risk. Moreover, for me, the breach demonstrated the complacency and the technological inadequacies of a corporation that in many cases knows more about the people generally than it does about themselves. That is unfortunate.

So it is incumbent on each of us to understand where the data goes, how it is used, how it is protected, and how we can more efficiently determine its accuracy.

And let us not forget that while the system works for many American households, millions more have no or very thin credit histories leading to inaccuracies. We need to assess whether or not the information that is collected is still predictive of a consumer's ability to repay loans. I think that is an important discussion for this hearing.

One of the best ways to help people rise above the poverty line is to allow them to build more thorough financial records. That means expanding the information that is collected that consumers can build so that they can be deemed creditworthy. The bottom line is that we must do more in striving for innovation and a more consumer-facing process. I think that means more competition. I think that means not simply nationalizing these three before us or creating a government bureau to do it but having greater competition, forcing industry to compete for consumers' participation and for opportunities to enhance their bottom line over the long term.

I hope today's conversation is a productive one. I thank both panels, both that are already here and those that are in the audience waiting for the second panel, I thank them for their testimony and for their time on this important matter.

Chairwoman Waters, thank you for holding this hearing. I hope that we can work together to build a consensus on ways forward to enhance what was an important statute in 1970, but is in much need of reform. With that, I yield back.

Chairwoman WATERS. Thank you very much. The Chair now recognizes the subcommittee chair, Mr. Meeks, for 1 minute.

Mr. MEEKS. Thank you, Chairwoman Waters, for calling this most important hearing. With my 1 minute, I will be very brief, framing what I see as the three fundamental issues for us to consider today and going forward.

First, consumer reporting agencies behave like de facto utilities but are not subjected to oversight or regulations comparable to that of utilities. CRAs capture data on two thirds of the American population and nearly every household. It is nearly impossible to circumvent them and the industry is concentrated in just three companies.

Second, consumers or the data, the source of conflicts but not the clients; the entire industry is built on capturing, analyzing, quantifying and trading consumers' personal information yet consumers don't even own their own data and have very limited access to it.

And third, errors and imperfect information impact the working poor disproportionately by depriving them of access to credit and at times hurting their ability to get a job or be approved for rent or a better apartment.

Thank you. And I look forward to questioning the witnesses.

Chairwoman WATERS. Thank you very much. We will now turn to our witnessesw.

Today, we have two panels. I want to welcome the first panel: Mr. Mark Begor, CEO of Equifax; Mr. James M. Peck, president and CEO of TransUnion; and Mr. Craig Boundy, CEO of Experian North America.

Mr. Begor was named chief executive officer of Equifax in April 2018. Mr. Begor previously served as managing director in the industrial and business services group at Warburg Pincus, a private equity firm based in New York City. And prior to that, Mr. Begor spent 35 years at General Electric.

Mr. Peck joined TransUnion in December 2012 as president and chief executive officer. Prior to TransUnion, Mr. Peck was at Reed Elsevier, a FTSE 100 company where he served as CEO of the LexisNexis Risk Solutions business from 2004–2012.

Mr. Boundy is CEO of Experian North America. He joined Experian in November 2011 as managing director of Experian U.K. and Ireland. Prior to joining Experian, Mr. Boundy was CEO of a U.K.-based management and information technology consulting firm.

Each of you will have 5 minutes to summarize your testimony. And without objection, your written statements will be made a part of the record. When you have 1 minute remaining, a yellow light will appear. At that time, I would ask you to wrap up your testimony so we can be respectful of both the witnesses' and the committee members' time.

Mr. Begor, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF MARK BEGOR, CEO, EQUIFAX

Mr. BEGOR. Chairwoman Waters, Ranking Member McHenry, and members of the committee, thank you for the opportunity to be here today. I am Mark Begor, and I have served as chief executive officer of Equifax since last April.

Let me begin by expressing my personal regret for the disruption that our 2017 cyber attack caused on millions of Americans.

I am here today because we recognize there are things we can do better. Credit reporting agencies like Equifax are trusted to protect personal data we hold to help consumer's access credit, and to help financial institutions make risk decisions. By having their credit data at Equifax, consumers have access to more affordable credit through loans that are regulated by Federal and State laws.

Last year in the U.S., Equifax delivered 2.3 billion consumer credit files to lenders. And during this hearing today, with the help of lenders, nearly a million transactions, including mortgages, credit cards, apartment rentals, and auto loans will be completed.

As you well know, consumers are at the core of what we do. And Equifax is taking significant steps to become a more consumer-focused credit bureau.

Since the 2017 cybersecurity incident, Equifax has invested more than $80 million to assist impacted consumers. When we announced the incident in September of 2017, we offered an identity theft protection and credit monitoring service free for all Americans, regardless of whether they were impacted by the cyber incident.

Last November, when that service was coming to an end, Equifax decided, voluntarily, to extend that protection for another year. Going forward, we are investing over $50 million to make it easier for consumers to interact with us, both over the internet and in our call centers. We are simplifying our online dispute process, improving our phone systems, and reducing the time to answer phones.

We want to make sure that we are the consumer-friendly bureau at every step of the way. Credit bureaus, lenders, data furnishers, and consumers all share an interest in maintaining accurate credit data.

The current regulatory framework requires credit reporting agencies to promptly investigate any dispute or inaccuracy, and also expects that lenders provide credit reporting agencies with accurate information. Let me be clear, a single error on a consumer's credit report is one error too many.

And I understand how frustrating it can be for a consumer to feel helpless when dealing with a credit bureau like Equifax. When I hear stories about consumers who have difficulties dealing with us, it strengthens my resolve to push Equifax further to improve our consumer support.

I would like to conclude by reinforcing our focus around data security. We are committed to building a culture, within Equifax, where security is a part of our DNA. And I have made it a personal commitment that we will be an industry leader around data security.

We have added experienced senior leaders and board members to enhance our security and technology skill sets. And in 2018 we added nearly 1,000 incremental IT and security professionals to our

team. I also want you to know that we are putting our money where our mouth is. We are increasing our technology and security budgets by 50 percent, totaling $1.25 billion between 2018 and 2020.

We recognize that part of being an industry leader is actively sharing our security learnings and best practices. Last year we established a number of meaningful partnerships that will raise the bar for the entire security community by leveraging our joint learnings.

We look forward to continuing collaboration around security in 2019, and beyond. To close, I would like to thank Chairwoman Waters for holding this hearing.

Equifax is committed to our mission to help consumers manage their financial lives in a secure way. We are investing unprecedented resources in technology, security, and people, as well as making it easier for consumers to manage their credit reports with Equifax. Thank you, again, for the opportunity to testify, and for your dedication to American consumers.

[The prepared statement of Mr. Begor can be found on page 104 of the appendix.]

Chairwoman WATERS. Thank you, Mr. Begor.

Mr. Peck, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT Of JAMES M. PECK, PRESIDENT AND CEO, TRANSUNION

Mr. PECK. Chairwoman Waters, Ranking Member McHenry, and distinguished members of the committee, thank you for the opportunity to appear before you today. My name is Jim Peck, and since 2012 I have been fortunate to be the president and CEO of TransUnion.

TransUnion is a global company headquartered in Chicago with nearly 4,000 employees in the United States, and over 7,000 worldwide. Consistent with our mission, we seek to help people through the power of information. We strive to ensure fairness for consumers in the marketplace, and help our businesses identify underserved markets and mitigate business risks.

Our work helps ensure that the economy is built on a solid credit foundation. I believe in TransUnion's mission, and will continue to be proud of the progress the company has made under my leadership after I retire from my position on May 8th.

Many people at TransUnion have introduced innovative new products to advance financial inclusion, and enable more consumer access to free credit information and education, and substantially enhance the company's cybersecurity program.

We appreciate the committee's foresight in asking how we can make the credit system even better. We particularly appreciate the chairwoman's leadership on these issues.

The credit bureaus and all entities who provide the information included in the system have a primary objective of ensuring that the information is accurate.

TransUnion processes more than 2 billion credit updates to our database monthly, and matches these to more than 230 credit active Americans. While we achieve accuracy in almost every in-

stance, given the extraordinary volume of the information we receive, it is inevitable that sometimes errors occur.

We recognize that no statistic of excellence matters to an individual who has been impacted by an error on their credit report. We work hard to prevent errors, and to address them quickly and efficiently when they occur. We hold ourselves accountable. We learn from our mistakes. And we try to improve every day.

We know that inaccuracies in credit files are most often a result of incorrect information provided to the credit bureaus by data furnishers, or of legitimate disagreements between consumers and lenders. That is why we continue to invest to simplify the process for consumers to resolve disagreements with their lenders.

I would also like to share some suggested improvements that TransUnion believes would further reduce inaccuracies and consumer disputes, and increase financial inclusion.

First, more timely reporting of key credit events like loan payoffs could enhance credit report accuracy, and resolve issues before consumers need to dispute them. Second, the process for reporting of student loan information should be enhanced to provide better support for our nation's student borrowers. Third, stakeholders should expand the use of alternative data such as positive cell phone data and utility payment data, as this has the potential to substantially increase the credit eligible population.

Through innovative solutions incorporating alternative and trended data, TransUnion has helped over 60 million credit invisible or credit-disadvantaged people gain greater access to credit, many on significantly better terms, and some for the very first time.

TransUnion also believes that individuals should have access to their credit information, and should be empowered to lock or freeze their credit wherever and whenever they choose. We are proud of the fact that each year over 166 million Americans have taken advantage, either directly or through our partners, of free access to their TransUnion credit information.

Critically, I want to finish my remarks today by discussing what we at TransUnion consider an absolute imperative: the need to keep consumers' data safe.

I can confirm that TransUnion has not had a material event that has resulted in the loss of consumer credit information. Virtually every industry in government is under perpetual attack by ever-evolving and more sophisticated cyber criminals, and faces new vulnerabilities that need to be addressed. Ours is no different.

TransUnion follows the guidelines of the National Institute of Standards and Technology (NIST). We have significantly ramped up resources and capabilities over the last six years and are consistently upgrading systems to keep pace. We would support and participate in a task force of government and private industry to work collaboratively against cyber crime.

In closing, I am proud of the innovations TransUnion continues to bring to the marketplace to expand credit to millions of hard-working people. Thank you for the opportunity to testify here today and I look forward to your questions.

[The prepared statement of Mr. Peck can be found on page 155 of the appendix.]

Chairwoman WATERS. Thank you Mr. Peck.

And Mr. Boundy, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF CRAIG BOUNDY, CEO, EXPERIAN NORTH AMERICA

Mr. BOUNDY. Chairwoman Waters, Ranking Member McHenry, and members of the committee, I am Craig Boundy, CEO of Experian North America, and I thank you for inviting me here today. I appreciate the opportunity to discuss Experian's important work, our efforts to make consumers a central focus of our business, and how we are investing to improve the credit reporting system.

Let me begin by stating why credit bureaus exist and how consumers benefit. Credit bureaus accurately compile individual's payment histories from creditors so that lenders can use this data to make better lending risk decisions. Good lending decisions for credit cards, autos, and mortgages mean fewer defaults, and fewer defaults mean lower costs of credit for consumers and greater availability of consumer credit across the economy.

Credit bureaus help stabilize the safety and soundness of the nation's consumer lending sector. What we hear most often from consumers, Members of Congress, and regulators is that everyone wants us to focus on three clear objectives: ensure the information we hold on consumers is secure; make credit reports accurate; and manage a data dispute system that is easy for consumers to use.

Experian has clearly heard and responded to this call, and significantly shifted its focus to the consumer. The number one priority of Experian is keeping consumer information safe and secure.

We began increasing our investments in data security well before the Equifax breach and we continue to do so. Experian is committed to achieving the highest possible levels of data security and integrity and will continue to work on our own initiative and with our regulators to find opportunities for improvement.

We support enactment of a Federal data security standard and breach notification law and have supported such since 2005. Experian also supports the committee's goal of helping underserved consumers. Many consumers may not have a mortgage or credit cards, but they do make rent, telephone, and utility payments.

Experian recently announced an opportunity for consumers to include certain information from their bank accounts onto a credit report. This free program, called Experian Boost, allows consumers to opt in to sharing utility and telephone payment information directly to their credit files and improve their credit score, including their FICO score.

A consumer can grant permission to contribute information from their banking accounts including the length of time accounts have been open and frequency of activity. This is particularly helpful to consumers who are new to credit or have had financial challenges.

We want to work with the committee to find more ways to expand financial inclusion. Experian also supports the committee's goal of enhancing the accuracy f credit reports.

We believe the best way to achieve and maintain improvements on behalf of consumers is through a robust and continuously super-

vised examination program administered by the Consumer Financial Protection Bureau (CFPB).

This program should continue to focus on ongoing improvements by both credit bureaus and lenders as well as other entities that furnish information to credit bureaus or use information from credit bureaus.

We are equally focused on data accuracy. Our goal is to reach as close to 100 percent accuracy as is possible. We have invested heavily to move closer to achieving that goal.

Our data quality team of more than 100 people manage a rigorous process of vetting data sent to us by lenders. We apply more than 400 data error checks on each record submitted by a lender and summarize a report back to the lender each month.

If data provided to us by a lender does not meet our standards, we reject it. An important component of accuracy is to make credit reports accessible for consumers to review and easily dispute data.

In March of last year, Experian introduced a new online dispute portal, including a mobile optimized version to make it easier for consumers to submit disputes and to receive the results of those disputes.

I would like to close by saying that Experian is proud of the improvements we have made. Our employees come to work every day wanting to help and empower consumers to create a better future for themselves. We are committed to the continuous improvement of our business for the benefit of consumers, lenders, and the economy.

Thank you for inviting to me to testify. I look forward to answering your question.

[The prepared statement of Mr. Boundy can be found on page 111 of the appendix.]

Chairwoman WATERS. Thank you very much. I now recognize myself for 5 minutes for questions.

Mr. Begor, I understand you were not at Equifax when the mass data breach happened in 2017, but you run the company now, so I have a few questions for you. Equifax initially offered one-year free credit monitoring for those affected by the data breach.

The company then offered a second year of free credit monitoring, but instead of providing the service yourselves, you sent these customers to Experian for their services.

Consumers had to sign up by January 31, 2019, and if they didn't, I understand that the initial credit lock they had on their data expired. So how many consumers signed up for the second year service, and can a consumer, watching this hearing who may have been affected by your company's data breach, still sign up for the free credit monitoring?

Mr. BEGOR. Thank you, Chairwoman Waters. Just to correct, we offered that free credit monitoring after the data security breach to all Americans, not just those who were impacted by the data security breach. And at that time, 4 million Americans took advantage of that free credit monitoring service.

As you pointed out, we extended the credit monitoring service in November of 2018 for another year. We decided to use Experian to provide that service versus Equifax and I don't have the exact

number of how many are still using that service, but I will get back to you with that data.

We are not offering today any new credit monitoring to impacted Americans, but as there's the ability for consumers, if they want, to freeze their account. They can do it for free using the Senate Bill 2155 that was put in place last September. And we also offer a free lock and alert product. It is an Equifax-only product to lock your—

Chairwoman WATERS. Thank you. Thank you very much. I want to understand why you referred them to Experian.

Mr. BEGOR. Madam Chairwoman, we moved the service over to Experian because we believed that was a more appropriate way for that service to be provided in our discussions with some of the regulators that we were working with.

Chairwoman WATERS. Despite the fact that Equifax is a bureau providing these services, you are saying that in the case of the breach, you didn't have the expertise, the ability to handle your own consumers?

Mr. BEGOR. Chairwoman Waters, it really wasn't the expertise. We moved very quickly to offer that service right after the data security breach.

Chairwoman WATERS. Then why did you refer them to Experian?

Mr. BEGOR. As I mentioned earlier in my comments, in our discussions with the regulators that we are talking to, the discussion was they thought it was more appropriate for a third party to provide those services than Equifax.

Chairwoman WATERS. How many consumers signed up for the second year of services?

Mr. BEGOR. As I mentioned a minute ago, Chairwoman Waters, I don't have that number at my fingertips. I believe it is somewhere in the neighborhood of 2 million moved over to the Experian service.

Chairwoman WATERS. Can a harmed consumer still sign up for the free credit monitoring services?

Mr. BEGOR. They cannot.

Chairwoman WATERS. Why not?

Mr. BEGOR. The consumers who decided to take advantage of it, we think we took care of them in September and the fourth quarter of 2017, the 4 million who did sign up.

And as I started to say, we also offer a free lock and alert product where they can lock their credit file for free with Equifax using a mobile application and that is available to all Americans at no cost.

Chairwoman WATERS. So, what you are basically saying is, you took care of all harmed consumers and you don't need to expand it or do more?

Mr. BEGOR. I didn't say that, Chairwoman Waters. What I did say is that, we took advantage of all Americans who wanted to take care of it, whether they were impacted or not, in the fourth quarter of 2017, so we opened it up to every American who was available, and as there are other services available to consumers who want to lock their credit file, either through each of the three bureaus, through Senate Bill 2155, a free freeze, and then with Equifax our online and mobile application of locking—

Chairwoman WATERS. Okay, I only have a few seconds left and I want to know, Mr. Begor, your company sells Equifax Complete Premier, which your website describes as, and I quote, "Our most comprehensive credit monitoring and identity theft protection product." But why should consumers pay $19.95 a month when a lot of what is being offered can be done for free?

Mr. BEGOR. I am not sure I understand the question, Chairwoman Waters, about—you know consumers have a choice whether they want to take advantage of that product and that is a product available not only from Equifax, but the other credit bureaus as well as multiple other sources of credit protection is available on the marketplace for consumers who want to avail themselves of it.

Chairwoman WATERS. I don't think that is a sufficient answer to my question, but my time is up and I am going to give Ranking Member McHenry an opportunity to have his 5 minutes of questions. Thank you.

Mr. MCHENRY. Thank you, Chairwoman Waters. And witnesses, I would like to thank you for being here today. I have read your testimony, and we have reviewed it. One thing is clear to me: not one of you discussed in your testimony increased competition in the industry. You don't even reference competition with one another.

In fact, Mr. Begor, you stated that millions of Americans have benefited from the efficient structure of FCRA. Yet, what I see here is an oligopoly, right? We have three of you not really competing and the consumers are the ones who are losing out. I think that is a problem.

That state of limited competition has real ramifications. So, how does an oligopoly protect consumers?

Okay, I will take that as an answer. So each of you reference in your testimony that you have an efficient way—a very quick, simple way to lock your credit, if somebody is concerned about, for whatever reason, their credit file being stolen or accessed by other folks. Is that correct? Do you all have a very quick, easy process online for that?

Mr. BEGOR. That is correct.

Mr. PECK. Yes.

Mr. BOUNDY. Yes.

Mr. MCHENRY. Okay. And all of you have referenced the changes in Senate Bill 2155. Some of you have referenced the fact that we talk about synthetic identity fraud for kids, right? And you all enable parents to lock kid's credit scores, their children's credit, correct?

Mr. BEGOR. That is correct.

Mr. PECK. Correct.

Mr. BOUNDY. Yes.

Mr. MCHENRY. And you would encourage parents to do that if they have concerns?

Mr. BEGOR. That is correct.

Mr. PECK. Correct.

Mr. BOUNDY. Yes.

Mr. MCHENRY. So, let us compare those two processes. You have this innovative process you talk about in which Americans can freeze or lock their credit with a simple click and anyone listening can go on the website right now, to any of three websites, it is a

click and they advertise this. I am a parent of 2 children, and one is 4 ears old. She hasn't told me she has a credit card yet. The 13-month-old, I am concerned about, though.

[laughter]

But I looked at your process to freeze my child's credit. And while I can very easily and efficiently click through a process and do it online to lock my credit, for my child's I am required to get a copy of my Social Security card, my driver's license, their birth certificate, a copy of both of my children's Social Security cards—I'm sorry, my birth certificate, not just my child's, my birth certificate as well, a copy of my child's birth certificate, as well as their Social Security card, documentation either through a birth certificate, court order or lawfully executed power of attorney or foster care certification that my wife and I are their parents.

And your efficient process, every single one of you, the three of you, have a process by which we use the United States Postal Service to mail photocopies to you of this sensitive information.

So why is it that when it is protecting my data, it is an efficient process and why is it such an inefficient process using an antiquated analog paper system to protect kids? Why isn't it as simple as a click? And how do I know that those documents are secure when I mail them to you?

You also reference the fact that those documents will not be returned to the sender. So with nearly a million kids exposed to synthetic identity fraud each year, you have made this process needlessly slow because you don't think it is in your corporate interest to make the process more efficient nor is there competition for you to add in some better way for parents to do this.

So how do I know that your system takes these paper copies and ensures that they are delivered to the right and appropriate department? The information on these pieces of paper is being protected through a secure chain of custody? And the paper copies and information are being destroyed at the end of the process?

This is an enormous amount of trust there. So the frustration I have here is I don't see that vibrant competition which is needed for this industry to actually help consumers in the way that the law should instruct. That is why we need to update the law. That is why we need more competition and simply taking you a three down to one and putting you in government is not the solution either.

So we need to make sure there's competition so that consumers actually can win and parents can have a more efficient way to protect their kids. I yield back.

Chairwoman WATERS. Thank you very much. The gentlewoman from New York, Ms. Velazquez, is recognized for 5 minutes.

Ms. VELAZQUEZ. Thank you, Madam Chairwoman, and let me start by thanking you for holding this important hearing. I would like to address my first question to the entire panel. Concerns about credit reporting errors, stolen credit information and identity theft have caused consumers to purchase additional credit monitoring services and other like products from all three of your companies.

For example, Experian's CreditWorks Premium program allows consumers to check their credit reports everyday from all three of

your companies and charges consumers $4.99 for the first month and then $24.99 for each additional month.

Do you think developing products like this to help consumers guard against your own negligence and then turning around and selling them back to the consumer at an extraordinary markup allows you to profit in part from your own deficient practices? Mr. Begor?

Mr. BEGOR. Yes, Congresswoman, we offer a product similar to that but I think as the Congresswoman knows, there are also many avenues that consumers can use to protect their data.

You know one is the free freeze that is available through Senate Bill 2155 last September and in Equifax's case, many Americans have taken advantage of that. And as I mentioned in my testimony, we also rolled out a free for life product separate from the freeze. It is a phone-enabled tool that a consumer can lock their credit file and then open it up at their discretion—

Ms. VELAZQUEZ. Thank you.

Mr. BEGOR. So it gives—

Ms. VELAZQUEZ. Thank you.

Mr. BEGOR. —them full control—

Ms. VELAZQUEZ. Thank you.

Mr. BEGOR. —over their—

Ms. VELAZQUEZ. Thank you.

Mr. BEGOR. —credit file.

Ms. VELAZQUEZ. Mr. Peck?

Mr. PECK. Yes, what we are very proud of is I think we have created a business model that over 160 million Americans a year are getting access to free scores, free monitoring through companies like Credit Karma and others and in addition to that, they are also getting credit education.

Ms. VELAZQUEZ. Thank you. Mr. Boundy?

Mr. BOUNDY. Yes, thank you, Congresswoman. With Experian you can come online and you can get access to credit monitoring and your credit report for free and I think this is an important step as well as being able to freeze your credit report—

Ms. VELAZQUEZ. So Mr. Boundy, can you please answer me, what makes your product so much better that requires you to charge $25 compared to the $5 in the first month?

Mr. BOUNDY. The first thing it covers is that there are costs involved in providing the product. For example, the cost of helping consumers remediate—

Ms. VELAZQUEZ. What is extraordinary about your product the second month compared to the first month? Why do you go from $5 to $25 to fix deficiencies that you created in the first place that could cost me my ability to access credit?

Mr. BOUNDY. Our products are used by many people in the U.S. and they enjoy the service we provide that helps prevent them or cope with data breach that occurred to other, companies unrelated to any of the credit bureaus.

Ms. VELAZQUEZ. But can you answer me why such a big difference, between $5 and $25, do you understand what it means for low-income families, consumers, what does it represent, $25 a month?

Mr. BOUNDY. I do and one of the things I want to come back to is we do offer a free product that consumers can take advantage of as well.

Ms. VELAZQUEZ. Again, this question is for all three of you. In March 2017, the CFPB produced a supervisory report which found that CRA lacked quality control policies and procedures to test reports for accuracy, had inconsistent practices for vetting furnishers, and had insufficient monitoring and oversight of the furnishers once they were approved to provide data. So my question is, how do each of you ensure the accuracy of the reports you are producing and test the veracity of information furnishers are providing to you. Yes, sir?

Mr. BEGOR. Yes, Congresswoman, as I mentioned in my testimony, we believe one error is one error too many in any credit report. We have an extensive team of data quality people who are auditing furnisher's inputs. And as I mentioned in my testimony, we are investing heavily in our dispute process to make it easier for consumers when they identify a dispute to help them get it fixed.

Ms. VELAZQUEZ. And what are the oversight procedures that you have in place?

Mr. BEGOR. As I mentioned, we have a very extensive data quality team and when we identify a furnisher that is providing inaccurate data to us, we will stop taking that data into Equifax.

Ms. VELAZQUEZ. And what are your procedures for taking action against any furnisher that fails to comply with your established requirements?

Mr. BEGOR. We will stop taking their data, Congresswoman.

Ms. VELAZQUEZ. So, what is the maximum number of times a furnisher's data can be rejected by your company before you stop accepting information from them?

Mr. BEGOR. That is something, Congresswoman, I don't have at my fingertips, I would be happy to come back to you with that data.

Ms. VELAZQUEZ. Would you please submit it in writing?

Chairwoman WATERS. The gentlelady's time has expired. We must move on. The gentleman from Florida, Mr. Posey, is recognized for 5 minutes.

Mr. POSEY. Thank you, Madam Chairwoman, and thank you, gentlemen, for appearing here today. I have a two-part question and it is for each of you and we can go left to right.

Your testimony touches on synthetic identity fraud. And so my questions are, what steps can we take to curb this type of fraud and what role do Social Security numbers play in synthetic identity fraud? And obviously is there a more technologically advanced approach that we could or should be taking?

Mr. BEGOR. Thank you, Congressman. I think as you know that is a growing problem and it has been around for a long time. Not only for the credit bureaus but for financial institutions at large were attacked daily by fraudsters posing as individuals like yourself or your constituents trying to access the personal information that we have. We have invested heavily in multifactor identification to make sure that we know you are you when you are trying to access your credit bureau data.

But even with that, we have a small number of those fraudsters that actually are successful in accessing our data. With regards to your question about the Social Security number, we are a member, along with I believe the other credit bureaus, of the Better Identity Coalition that was formed I believe a year ago looking at alternatives to the Social Security number.

But to me, the real approach is just having more rigor around identification of the individual when they are trying to access sensitive information.

Mr. POSEY. Okay, thank you. Mr. Peck?

Mr. PECK. Thank you, Congressman. So, the problem of synthetic identification isn't just a credit industry problem, it is a problem all through the United States and around the world and I think we need to do multifactor authentication. I think we ought to think about, even a government task force that includes our industries, but other technological industries and comes up with new ways to check for identities.

And I think we have to acknowledge that the Social Security number, while it is a fine identifier, it is not really something that can be used by itself as an identity check. So we need to augment that and admit that it has kind of served its purpose and now use the new technologies available, maybe biometrics, to come up with an even better two-factor authentication.

Mr. POSEY. Okay, thank you. Mr. Boundy?

Mr. BOUNDY. Congressman, thank you for the question, I think it is an important one. Clearly, it's something we are all very concerned about and I think we would be very happy to work with the committee and suggest some ideas to further improve the way that we all address the threat of synthetic identity fraud.

Mr. POSEY. What would happen to the availability and the cost of credit if we eliminated entire categories of debt from credit scores?

Mr. BEGOR. Oh, I think that is an excellent question, Congressman. We are big believers as are, most importantly, the financial institutions that are making those credit decisions that more data and accurate data results in the best consumer decision. And eliminating types of data from consumers, our view and I think the financial institution's view, could raise the borrowing cost for all consumers, which is why we believe accurate and complete information is most important.

Mr. POSEY. Okay. Mr. Peck?

Mr. PECK. Congressman, I agree, more and different kinds of data, like we have suggested. So, utility data, cable bill data, cell phone data, these are the kinds of data that can quickly get someone who may have stumbled, to prove again that they are back on the right track and they are a good borrower, so I would consider that first.

With regards to taking off data, I think that is something that the industry should study and understand the implications of, and once they understand it, we can make an informed decision of whether we should do that or not.

Mr. POSEY. Thank you. Mr. Boundy?

Mr. BOUNDY. Congressman, thank you. I think it is important that we are able to have the correct and accurate information on

a credit report that allows as many people as possible to gain access to credit and that is why we have launched the Experian Boost product, which allows consumers to directly contribute information onto their own credit file for free.

Mr. POSEY. Okay. Thank you, gentlemen. Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you very much. The gentleman from New York, Mr. Meeks, is recognized for 5 minutes.

Mr. MEEKS. Thank you, Madam Chairwoman. Let me ask all of you this question first. Would you agree with the statement that, while consumers may be the clients of your data providers and data users, consumers are not, in fact, your primary clients, but really just principally the source of data?

Mr. BEGOR. Do you want me to start, Congressman?

Mr. MEEKS. Yes, sir.

Mr. BEGOR. Thank you, Congressman. As I said in my oral testimony that is not how we view it and certainly not how I view it since I joined Equifax last April. We believe the consumer is central to who Equifax is and I have been very clear internally and externally that our goal is to be a consumer-friendly credit bureau and we are investing heavily in the consumer, including $50 million in new technology to make it easier for consumers to access their credit file and also, most importantly, to process disputes that they may have on their file.

Mr. MEEKS. So, let me ask you this question and then I will go to Mr. Peck after that. Who owns the data? Do you own the data or do the consumers own the data? Who owns the data?

Mr. BEGOR. There's no question, Congressman, it is the consumer's data.

Mr. MEEKS. So, if it is the consumer's data, then where and how does the consumer control that data? For example, if the consumer decides that he or she wants to opt out entirely from having their information tracked by your companies, if they do, what is your estimate about such a person's ability then to access credit or quickly comply with a background check?

Mr. BEGOR. I think as the Congressman knows, the credit bureau system that we have in the United States is the envy of many countries around the world. Consumers today do have the ability to freeze their file and that gives them control to decide if they want to lock their file from access by any financial institution and then they can unlock it at their discretion. And as I mentioned, Equifax also rolled out a mobile application called Lock and Alert that gives them even more control to actually lock and unlock when they are out getting a new car.

Mr. MEEKS. Would the consumer have to pay for that?

Mr. BEGOR. They do not, Congressman. As I mentioned, it is offered for free and it is free for life to all Americans.

Mr. MEEKS. Okay. And the question then is, would the consumer, and I will go to Mr. Peck for this question—when you are agencies, you control oftentimes, particularly for poor people, the determination of whether or not they can get a job.

Sometimes because they look at their credit rating, et cetera, to make the determination whether they can get a job or not, and my concern then is, for that poor person who is trying to get a job and

then they are declined, them having access and being able to go through and look through their own data in a timely form so they can get the job. What does your company do to make sure that happens so that is not an additional expense to a person who's already struggling?

Mr. PECK. Thank you, Congressman. If I understand that question, if a credit report is the reason a consumer doesn't get a job, the employers are required to tell them what information in that credit report caused them not to get the job. And then there is also the avenue of free access to your credit report through one of many, many avenues today to look at that report.

Mr. MEEKS. So, because what I am trying to drive at, when a dispute arises, who, other than the consumer, is tasked with advocating on the consumer's interest and position? Is there anybody?

Mr. PECK. Congressman, when a consumer has a dispute, they submit it to, in this case—if it were to TransUnion, they would submit it to TransUnion, one of many avenues.

We have an obligation within 5 days to acknowledge that and get that to the lender who is—or whomever is causing the issue and then we have an obligation to get back with them within, I think, it is 30 days. It ends up—our statistics show that we get back with them within 5 days, 25 percent of the time.

Mr. MEEKS. But there's no other advocate? Because what happens oftentimes, especially with someone who is poor and they are trying to make their life better, there is a statement, and I don't whether any of you have been poor before, but there's a statement that James Baldwin made, that anyone who was ever struck with poverty knows how extremely expensive it is to be poor, and the individual who is poor can't get a job, then they have to end up paying for not having access that others have then suffers. And they are never going to climb out of this poverty that they are fighting to get out of.

And because of the lack of competition that Ranking Member McHenry and Chairwoman Waters were talking about, they have no place else to go and it seems as though the three of you basically can control that, and that person therefore is out of a job and cannot climb their way out of poverty. I yield back.

Chairwoman WATERS. The gentleman's time has expired. The gentleman from Missouri, Mr. Luetkemeyer, is recognized for 5 minutes.

Mr. LUETKEMEYER. Madam Chairwoman, I think the gentlelady from Missouri is up next. She has an emergency she needs to attend to, so I am going to—I will reserve my time for later if you will allow her to take her 5 minutes now.

Chairwoman WATERS. The time is granted to the gentlelady from Missouri, Mrs. Wagner, for 5 minutes.

Mrs. WAGNER. I thank the Chair for her courtesy, and I thank my colleague from Missouri for his kindness also. I thank the chairwoman for hosting this hearing today, to examine the current state of America's credit reporting system.

Consumer protection and monitoring the accuracy of credit scores is an issue that is critically important to my constituents and certainly to everyone across the country.

Mr. Begor, we know that one of the best things that cyber security professionals can do is to band together, sharing advice and expertise about what works and what doesn't.

How has Equifax been helping the broader, I will call, chief information security officer community?

Mr. BEGOR. Thank you, Congresswoman. As I mentioned in my earlier testimony this morning, it is one that we have taken on quite strongly since the data security breach in September of 2017, not only with our competitors; we are sharing what we have learned from the cyber security breach internally inside of our industry and with our financial partners and others that have been impacted.

We have forms that we set up in many communities and our SISO and technology teams are really sharing quite openly what we have learned of what happened at Equifax, and more importantly, how we are investing the $1.25 billion of incremental investment we are making between 2018 and 2020, really sharing that with others quite openly, because we believe this a war that is not going to end.

That not only are the credit bureaus, but every financial institution, every company in the United States and government agency is attacked daily by fraudsters in nation states that are trying to attack our data and security.

Mrs. WAGNER. And building on that, Mr. Begor—and we are grateful for your leadership, you have been a breath of fresh air at Equifax—could you tell me a little bit more about how your workforce has changed since the 2017 cyber security incident?

I understand that you have a larger security team, but tell me more about what you have done to ensure that you have hired employees with the right expertise and how you have drawn in new talent.

Mr. BEGOR. Yes, as you well know, we have added resources in St. Louis and Atlanta, which are our two principal centers in the United States. As I mentioned in my earlier testimony this morning, we have added 1,000 incremental people in the United States, which is almost a 20 percent increase in our U.S. workforce and that is part of that $1.25 billion incremental spend we are going to do around technology and we have attracted the very best.

We really believe people are going to differentiate how we operate in security and technology and that is we have had such a high priority in bringing in new and strong talent.

Mrs. WAGNER. Thank you. Mr. Peck, how would eliminating accurate predictive information from the risk underwriting in your reports impact consumers and lenders?

Mr. PECK. If we eliminate—thank you for the question, Congresswoman, I want to make sure I understand it. If we eliminated accurate and correct information. If we eliminated the wrong information I think, as we look at the performance of bureaus around the world who have attempted this stuff, the actual cost of lending has increased substantially, to the consumer because they have no way of differentiating between the different—

Mrs. WAGNER. Ultimately, the consumer is going to pay.

Mr. PECK. That is what we have seen. That is why we strongly suggest that we look at ways to bring in more information, espe-

cially things like cell phone payment data and other utility-type data that we all deal with. There was a CFPB study that just came out that showed people in rural and highly urban areas are much more positively affected by bringing that data in because it brings them back into good standing, or back into the credit community much more quickly than relying on the traditional forms of credit reporting.

Mrs. WAGNER. Mr. Peck, briefly, in what ways does a consumer have control over their data at TransUnion?

Mr. PECK. At TransUnion, we believe that we are the stewards of the data. The consumer can lock and unlock, freeze or unfreeze their data. They can even opt out of the data when it is used for firm offers of credit, which is a form of marketing. So they have complete control of when it is used.

Mrs. WAGNER. Thank you, Mr. Peck. Briefly, Mr. Boundy, how does Experian try to help people from diverse communities thrive in your corporate environment?

Mr. BOUNDY. Congressman, thank you for the question. As an employer, diversity inclusion is a really important part of how we run our organization. It is something I am very proud of and I know all of our employees are very proud of, whether it is from allowing teams to form individual clubs—let them create communities or employee resource groups that allow them to recognize the community that they represent, or how we recruit our staff. It is a very important part of how we run our company.

Mrs. WAGNER. Thank you very much. My time has expired. I thank everyone for their courtesy. And I yield back.

Chairwoman WATERS. Thank you very much. The gentleman from Missouri, Mr. Clay, is recognized for 5 minutes.

Mr. CLAY. Thank you so much, Madam Chairwoman. There are quite a few Missourians on this panel. But let me ask the three of you, and I want to read a quote from a recent story in—this is from Francis Creighton, President and CEO of the Consumer Data Industry Association—legislation that are negatively impacting them. And we think that is really problematic.

So my question to the three of you is: is that problematic for consumers to be able to challenge something on their report, have it removed, or at least bring it to your attention? And does it indicate that the industry may need a shift in culture because you are putting up quite a bit of resistance to changing the culture that you now operate under, as far as credit reporting bureaus.

And understand, the question is about the impediments and barriers that you put in front of people who are trying to close the family wealth gap, or trying to close the gap in home ownership. So that is the impact that your scores have on families. So let me start with you, Mr. Begor. Does the industry need a shift in culture?

Mr. BEGOR. Congressman, as I mentioned in my oral testimony this morning, you know, our culture is shifting. We have always been strongly focused on the consumer. It is a real priority for me to really support consumers. And as you talk about errors on credit files, we are really enhancing the processes and the focus around helping a consumer because there's a lot of angst.

If they are trying to get a new mortgage, or an auto loan, or a school loan and there's an error on their credit file, we are obligated to help them fix that. And if the error is an error, than get it fixed so they can improve their credit score and their credit standing.

Mr. CLAY. How easy is it for a consumer to come to your company and say, hey, this is a mistake. And how long does it take for them to get that taken off their report, or get it corrected?

Mr. BEGOR. Congressman, it—as I mentioned in my oral testimony, we are investing $50 million in the coming months to enhance our capabilities to have mobile online access. As the ranking member talked about, having to send documents through the mail—actually send them through the web to us in a secure way, and we have—there are regulations on how quickly we have to respond.

You know, we respond—I think it is 25 percent, roughly, within the first 7 days, resolve that dispute, over 50 percent in the first 14 days. And we are obligated to complete that process within 30 days.

Mr. CLAY. Okay. Mr. Peck, is there resistance to a cultural shift in your industry?

Mr. PECK. Thank you, Congressman. I think our culture is, very much, shifted towards the consumer. No one wins when there's an inaccurate report, especially the consumer. And so, we have tried, especially over the last 4 or 5 years, to put processes in place that are really easy for the consumer to do.

So for example, right on their credit report, we have a button where they can say, if you are disputing this just press this button. What are you disputing? Not only our own service, but in services like Credit Karma. And we believe that has actually driven up the amount of disputes that we have had, or people just asking questions about their credit to improve it.

I would suggest, as it was in my testimony, that—especially in the area of student loans, the reporting process is very confusing. I think it is known that it is confusing, and it does not help the—you know, the first time—you know, these are the people paying back their loans for the first time. And we would love to work with this committee on doing something about that.

We also think that all data is not alike. So if someone is paying off their loan and they know they have a mortgage coming so maybe they want to pay off their auto loan, having that record show much more quickly as paid would reduce disputes, but also make that person's life easier.

Mr. CLAY. Okay.

Mr. PECK. So we would strongly love to work—

Mr. CLAY. Before my time runs out—

Mr. PECK. —together on that.

Mr. CLAY. Mr. Boundy, has your company made a difference in the number of disputes? Have they gone down, or is the culture the same?

Mr. BOUNDY. Congressman, I think our company has made a significant shift towards concentrating even more on the consumer, whether that is making it easier for consumers to dispute. Our new online dispute portal really does that. Or mostly importantly, I

think allowing consumers to contribute information themselves that improve their credit score.

Mr. CLAY. Okay. My time has expired. I yield back.

Chairwoman WATERS. And now the gentleman from Missouri, Mr. Luetkemeyer, is recognized for 5 minutes.

Mr. LUETKEMEYER. Thank you, Madam Chairwoman. Gentlemen, thank you for being here today. I just want to make a couple of comments here.

It is very important for a lender to be able to understand the risks they are about to take. And lenders want to lend money. They don't make any money unless they lend it. But in order to make an accurate decision of whether to do it or not, you have to really analyze the risk that they are taking when they lend that money.

And so, for your business to be a part of their lending decision is very important, and to have the accurate information is extremely important. I know that there have been some discussions today about some of the things you have done, and how you have improved your process and your data.

But I would like to ask you a couple of questions and go down the line to each one of you, can you give me an example—we will start with Mr. Begor there—of an individual that you have helped as a result of some of the new programs that you have instituted?

Mr. BEGOR. Thank you, Congressman, that is a great question. In our communities where we have large employment centers like Atlanta and St. Louis, we are actively involved with local charities that are doing credit consulting, credit coaching and one experience has been brought to my attention of a woman who was unbanked.

She was receiving her paychecks via a debit card. As you know, there are fees associated with that and through the coaching and our partnership with this agency, we were able to help her learn about how to open a checking account, how to get into the formal financial system and she actually then graduated into getting a credit card and it is those elements to trying to help that we are really quite supportive of.

Mr. LUETKEMEYER. Mr. Peck?

Mr. PECK. Congressman, thank you for the question. I will talk about something in the broad sense and maybe specifically. We introduced a product that included trended data, so over a 30-month period, you could see not only what a person's account was but actually how they are paying it and that ended up having a large impact on helping people who are maybe starting from a bad spot in their credit to more quickly prove that they are acting financially responsible.

The same effect happens with alternative data and I keep quoting the CFPB study that just came out that has a higher impact on rural areas and highly urban areas. And our studies show that 60 million people have either gone from credit invisible to visible or they have improved their credit score.

A specific thing that just happened, and someone copied me on a consumer note that they had sent to—through the dispute process and she was asking us, can you help me get my auto loan paid off? It is been paid off but it hasn't been reported yet and I am applying for a mortgage.

And so what we are suggesting is that all transactions aren't the same. If we could work together to help the furnishers understand that perhaps those kinds of transactions make them happen more quickly, you can really help consumers in a tangible way.

Mr. LUETKEMEYER. Thank you. Mr. Boundy?

Mr. BOUNDY. Congressman, thank you for the question. This is something that is really important to me and all of our employees. I thought it would be useful to maybe tell you about Janine. Janine is a married working mother of six from Ohio. We helped her at Experian get a fresh start with her credit life through our credit educator program. She got into trouble with her credit during college and began to associate her debt with anxiety, clearly very concerning and she needed to talk to somebody about her personal situation.

We partnered with a community organization and we referred her into our credit educator program. Over months of working through this, she was able to improve her credit score by 150 points. That is a very significant improvement for her. It allowed her to take out an auto loan and refinance her mortgage.

And if I may, I will just read a brief quote from her. In her own words she said, "I did not think I had any leverage but this program gave me confidence to apply what I knew and push forward to settling into a better life with better credit."

Mr. LUETKEMEYER. Thank you. You know one of the things that I think Mr. Peck you made the point here a minute ago with regards to as people's circumstances change their ability to pay also improves. So in other words, they maybe change jobs or maybe they had a child move out of the household so they now have more money to be freed up to be able to do things and those things can be reflected on your credit scores as you see an improvement in them suddenly for certain reasons.

How often do you go back and check your data and study it to make sure it is accurate? Anybody? Mr. Peck?

Mr. PECK. So, accuracy is the most important thing we do and what we really do is check for accuracy as it comes in and we spend a tremendous amount of dollars and time on the matching algorithms which we think we have some of the best in the business and we also spend a tremendous amount of energy and time working with the furnishers to make sure that they are submitting—that they are good furnishers, they are submitting data in the right format and they are not sending anomalous data. So if all of a sudden their data starts looking funny or wrong, we get back with them.

Mr. LUETKEMEYER. Thank you. My time has expired. Thank you, Madam Chairwoman, I yield back.

Chairwoman WATERS. Thank you very much. I now recognize the gentleman from Georgia, Mr. Scott, for 5 minutes.

Mr. SCOTT. Thank you very much, Madam Chairwoman. Mr. Begor, how are you? Let me ask you this going back for a minute with Equifax and the breach. First of all you are a Georgia company and I love Georgia.

Mr. BEGOR. We do too, Congressman.

[laughter]

Mr. SCOTT. I know we do. And so we want to make sure the record is clear in terms of how we have moved to correct the breach situation. I think it is very important for the committee to know that you were not CEO at the time of the breach. You are relatively new at Equifax. You have assumed this position, I think, only about 10 months ago. Is that correct?

Mr. BEGOR. It is, Congressman.

Mr. SCOTT. So it is sort of like we have a new sheriff in town. And I want to commend you for the leadership that you have provided in cleaning up the mess. You have invested $1.2 billion in getting new technology to correct and make sure the breach never happens again. You have hired over 1,000 highly-qualified tech professionals to make sure of that.

And you have provided retribution and retention and help for all of those customers, 148 million, who need the help and the retribution to make sure they are clear. So I want to tell you, job well done there, but we have a bigger issue here.

According to the CFPB's report, of all the complaints that have been registered by consumers, they have not been the breach, they have been on inaccurate reporting and so I want you to comment on that because you have an issue there.

I want to know, and I think the committee wants to know, what are the steps that you are taking to address this issue of inaccuracy? As Chairwoman Waters pointed out in her opening statement, it is devastating to folks who are trying to get jobs, or student loans, so what are you doing to correct that?

Mr. BEGOR. Thank you, Congressman, and thank you for your comments. As I mentioned in my oral testimony this morning, we think it is an important issue and I was very clear that one credit report error is one too many and we are really doubling down on our focus on the consumer.

We are investing heavily in our consumer interfaces so we can improve the ease for consumers to process a dispute. And as you pointed out so correctly, when a consumer has an issue with their credit file, and I think it is been talked about a bit this morning, there's a lot of angst with that consumer. So we have a lot of sympathy to having better trained call center representatives, better technology to process the dispute to help them because they are generally trying to complete a new financial transaction whether it is a car loan or a mortgage.

Mr. SCOTT. But here is where I am having difficulty. This process, I think it is what you refer to as the dispute resolution process, and it goes on and on. Sometimes, these consumers have to even go to court. Who is going to pay for that when it has been the credit agencies' fault, merging files, mistaking information, and in order to get that cleared, they have to go to court, which means they have to get a lawyer, they have to pay all these costs, what are we doing on that point?

Mr. BEGOR. Thank you, Congressman, you know it is very rare that a consumer would have to go that far as to go to court—

Mr. SCOTT. But some are.

Mr. BEGOR. And they do, Congressman, and you are correct. We don't want any consumer to have to go down that avenue; we want to solve it for the consumer quickly and that is our focus. And the

other thing we want to do is when we are not able to solve and those few instances where they do go to court we want to learn from that and then fix our process so it doesn't happen again.

Mr. SCOTT. Do you not think it might be worthwhile to find a way to be helpful to—for the cost if they have to go to court? You say it is very few, but fair is fair. They didn't make the mistake, the credit agency, Equifax—or any of the others made that mistake. Wouldn't that be something that would be worthy of consideration that if it has to go to court, then let us find a way to help that consumer out? He is already suffering from the mistake that you and the credit agencies made.

Mr. BEGOR. Congressman, your point is 100 percent correct. You know, our focus is to resolve those with the consumers quickly so that the consumer can complete their financial transaction as I mentioned in my testimony, my goal is to be a consumer-friendly credit bureau and to enhance our customer service.

Chairwoman WATERS. Your time has expired. Mr. Huizenga is recognized for 5 minutes.

Mr. HUIZENGA. Thank you, Madam Chairwoman. So looking at the history of why this industry came into existence, it really was to try to ease availability for credit, right? Into a broader scale, and I do believe that the products that have been put forward have significantly helped to ensure that credit is more available to millions of consumers.

And I know, having a small family business background—my grandfather started in construction in the 1930's, and I now run the family sand and gravel operation—that over the decades, credit has been a significant issue.

What I am concerned about I think as the ranking member had talked about is sort of where are we in the industry since FCRA hasn't been really touched since the 1970's and I want to know what has been done to modernize and adopt the new technologies?

And I guess specifically I want to go quickly on this National Institutes of Standards and Technologies updated its cyber framework last spring and the FTC safeguard rules require firms have measure to keep in place customer information. So if we just quickly go down the line, Mr. Boundy do you comply with both NIST framework and the safeguard rules?

Mr. BOUNDY. Yes, we do.

Mr. HUIZENGA. Yes, Mr. Peck?

Mr. PECK. Yes, we do.

Mr. HUIZENGA. Yes, Mr. Begor?

Mr. BEGOR. Same, yes, we do.

Mr. HUIZENGA. Okay, and have you conducted an independent audit of your cyber security platform?

Mr. BOUNDY. We are constantly reviewing both internally and externally looking at external accreditations like ISO 27001 that we hold or PCI accreditations to make sure that our information security is up to standard.

Mr. HUIZENGA. But not an independent audit at this point?

Mr. BOUNDY. External audits are carried out.

Mr. HUIZENGA. I'm sorry?

Mr. BOUNDY. External audits that are achieved to carry out those accredited—

Mr. HUIZENGA. Okay. Mr. Peck?

Mr. PECK. Yes, we do external audits.

Mr. HUIZENGA. Mr. Begor?

Mr. BEGOR. As you might imagine, Congressman, following the cyber incident of 2017 there have been multiple external reviews of our cyber security protections both by ourselves as well as by government agencies

Mr. HUIZENGA. Okay. And should Congress pursue legislation to codify Federal data and security and consumer notification standards?

Mr. BOUNDY. As I said in my opening testimony, Congressman, I think it would be something we would support, that there would be a national data breach standard and notification approach.

Mr. HUIZENGA. Okay. Mr. Peck?

Mr. PECK. Yes, I agree they should.

Mr. BEGOR. We also support that at Equifax.

Mr. HUIZENGA. Okay, well I do believe that we need some updates and reforms, not some, we need some significant elements of that as—again as Mr. McHenry had talked about earlier, I am a bit concerned that the reforms that the Chair has put forward may go a little far afield on that and, specifically, the draft suggests eliminating entire categories of debt from credit scores.

And I am curious, what would—knowing that the history of how this evolved, how the industry evolved, what would be the impact of this and what would happen to the availability and cost of credit to consumers? Mr. Boundy?

Mr. BOUNDY. Well, I think we would—it is something we would need to study in more detail, but just in principle, I think they are probably two, one would be it could negatively impact a lenders ability to assess risk and second is that it has the risk of increasing the cost of consumer's access to credit.

Mr. HUIZENGA. Mr. Peck, quickly?

Mr. PECK. Congressman, in my view we should study it and make sure it is statistically and empirically sound, we know what our conclusions are if we take certain things and maybe reduce them from 7 to 4 years. At the same time I think we should make the same effort to see if more information will actually help improve the scores, so I think that would help modernize the system as you discussed.

Mr. HUIZENGA. Mr. Begor?

Mr. BEGOR. Congressman, just reinforcing what has already been said by the other two witnesses is that we believe more data and accurate complete data is really in the interest of all Americans that are accessing credit.

Mr. HUIZENGA. Mr. Boundy, you had talked about this, I think in your opening statement, that actually Experian offers the opportunity to add information, to opt in by consumers, is that correct?

Mr. BOUNDY. Thank you, Congressman, yes we do. We have recently launched a product called Experian Boost, designed to do what it says, which is to give consumers the opportunity to boost and increase their score by adding information themselves.

Mr. HUIZENGA. And so does that maybe buttress what the other two gentleman here were talking about sometimes maybe more information that is put in by consumer might help that?

Mr. BOUNDY. Yes, I think what this does is let us offer to consumers the ability for them to add new information that we don't currently have that will positively impact their score.

Mr. HUIZENGA. My time has expired so I appreciate the opportunity.

Chairwoman WATERS. Thank you. The gentleman from Texas, Mr. Green, is recognized for 5 minutes.

Mr. GREEN. Thank you, Madam Chairwoman. And I thank the witnesses for appearing and I appreciate what they have said with reference to their efforts to atone, but I do have some questions that relate to some other things that may have occurred. Is it true that Equifax executives sold $1.8 million in company stock, or thereabouts, before the breach was announced?

Mr. BEGOR. Congressman, I don't have the exact number but there were a number of executives who sold stock before that breach was announced—

Mr. GREEN. If I may, because time is of the essence, would you say that it was at or near or around or approximately $1.8 million?

Mr. BEGOR. Again, Congressman, I don't have the number at my fingertips but I would be happy to come back to your office with that.

Mr. GREEN. Well, I will be happy to tell you that I have it at my fingertips, and it seems to me that you have been naughty. Is it true that at or around the same day the breach was announced, there was an attempt to limit damages by way of a congressional hearing? And I am talking about the 148 million consumers who had their precious priceless information breached. Is it true there was a congressional hearing to limit or cap damages?

Mr. BEGOR. I am not familiar with that, Congressman.

Mr. GREEN. Well, I am. Have you opposed capping damages such that your liability would be limited to some number, perhaps $500,000?

Mr. BEGOR. Not since I have been a part of Equifax. No, I have not.

Mr. GREEN. Okay. Are you aware that there were efforts to limit damages?

Mr. BEGOR. I was not aware, Congressman.

Mr. GREEN. Is it true that the credit bureaus are not liable for the information that you purvey, generally speaking?

Mr. BEGOR. Is that directed at me, Congressman?

Mr. GREEN. Yes, sir.

Mr. BEGOR. I am not sure how to define the term "liability."

Mr. GREEN. Well, let me help you. If you have information that is inaccurate, is it true that you would say to the public that the person who gave us the information is the person who bears the responsibility for the liability?

Mr. BEGOR. I think as I mentioned earlier, it is our view at Equifax that we have a central role when there's inaccurate information to both auditing it when it comes in from the furnishers or the financial institutions—

Mr. GREEN. Do you agree, if I may, do you agree that the liability or litigation is something that you would contend belongs to the person who gave you the information—furnished the information?

Mr. BEGOR. Congressman, I am not a lawyer so I really can't give a perspective on the liability. I can tell you that we feel an obligation and it is central to how I am running the company to ensure that we are working—

Mr. GREEN. Well, if you feel an obligation, permit me to ask this: Do you give notice to the users of your information that there may be as much as 20 percent of it that is inaccurate?

Mr. BEGOR. We don't give notice. It is on the CFPB's website of what the disputes are that are processed so it is available to the public.

Mr. GREEN. I understand but do you, as the purveyor of the information, do you accord notice indicating that, "Our business model is flawed. We use inaccurate information?" Do you let consumers know that you have a flawed business model?

Mr. BEGOR. Congressman, as I mentioned in my testimony earlier and this conversation, our focus is on accurate data and I said also—

Mr. GREEN. Our focus however is on inaccurate data. That is my job. I take my job seriously, I am sure you take yours seriously.

Mr. BEGOR. Yes, I do.

Mr. GREEN. Inaccurate information hurts. I have dealt with constituents who have not been able to get a mortgage because of inaccurate information. Why would I assume, given that you have been naughty you haven't been nice.

Why would I assume that you are now going to repent, that you have seen the error of your ways and that you want to atone and you want to self-regulate? I see no reason to do it. I support the legislation that the chairwoman has presented. It is time for change. I yield back the balance of my time.

Chairwoman WATERS. The gentleman from Colorado, Mr. Tipton, is recognized for 5 minutes.

Mr. TIPTON. Thank you, Madam Chairwoman, and witnesses, I appreciate you taking time to be here today. Mr. Boundy, in your testimony you note that placing an emphasis on the accuracy and credit reporting benefits both the consumers and financial institutions, leading ultimately to better consumer protections and lending outcomes. In your testimony you suggest that the credit bureaus help stabilize the safety and soundness of the nation's consumer lending practices. Can you make a statement in regards to statutory change that is being proposed by the chairwoman and what kind of customer information is being required in those statements to be able to stay on the consumer's credit is report? Is that going to be able to distort the financial information or would it enhance it?

Mr. BOUNDY. Congressman, I think if I understand your question, we support the committee's overall goals of continuously improving the accuracy of credit reports but the information that is currently held in the credit reports does allow us to help be part of assuring consumer lending takes place appropriately in the United States.

Mr. TIPTON. So would you actually recommend a little bit of caution in terms of putting in statutory requirements in terms of some of that information? Would it inhibit maybe some of the ideas that you are putting forward for the opt in program for the utility bills,

for the payments that you are making on real estate and otherwise coming in?

Mr. BOUNDY. Thank you, Congressman. I think what is important to understand about the Experian Boost Program is that it is a consumer opt in program so that is something that any consumer can take part in if they want to but our industry does rely on voluntary contribution of information so I am always concerned that anything that could impact the accuracy of the information that we hold and allow us to support consumer lending in the United States.

Mr. TIPTON. Great. Mr. Peck, I noted that you wanted to kind of chime in a little bit in terms of what Mr. Boundy was talking about on the Experian Boost Program, in terms of some of the opt ins. Did you want to speak to that issue?

Mr. PECK. I did. Thank you, Congressman. I was going to bring up a different point. TransUnion came out with trended data well before the other two. We came out with certain kinds of alternative data well before the other two. Experian has come out with this product that we are now working very hard to match and build and I just wanted to point out that is an example of competition in this industry where we really are pushing each other to come up with really interesting technology solutions that help the consumer. That was the point I was going to make.

Mr. TIPTON. Great. I appreciate that. I represent a lot of rural Colorado. Main street businesses, small communities, the ability to be able to use some alternative methods to be able to actually qualify that you have an ability to be able to repay is something that is admirable. Have you had fair buy-in in terms of these opt in programs? Are people taking advantage of it, Mr. Boundy?

Mr. BOUNDY. Yes, they are indeed. We only launched the Experian Boost Program recently and already a large number of consumers are opting in because they see the benefit to them.

Mr. TIPTON. Great. Mr. Peck?

Mr. PECK. We don't have that product in place at this time, Congressman, but we are working on it. But we have gone about it with something we call trended data that has been in the market for awhile. That and our alternative data products, as I said before, have actually increased the number of credit visibles or improved the credit scores of the number—of the credit disadvantaged of 60 million people.

Mr. TIPTON. Thanks. Mr. Begor, you talked quite a bit about your company's desire to be able to get some of the dispute resolutions accelerated. You have cited a number of dollars that are being put in. Would you maybe expand a little bit on what those dollars are actually translating into, in terms of making that dispute resolution a real reality for consumers?

Mr. BEGOR. I thank you, Congressman, and as I said earlier in a couple of comments this morning, we believe that our central goal is to support the consumer and this is consumer data that we protect and when there's one dispute, it is one dispute too many.

Our $50 million of investment over the coming months is really going to be around to enhance the technology between us and the consumer to make it easier for them to file a dispute, easier for them to see the dispute in process, when do we have it, when it

goes back to the furnisher or financial institution, when it is back with Equifax, what is the resolution? And we really view ourselves as an advocate for the consumer.

Mr. TIPTON. Great. Thank you. I will yield back, Madam Chairwoman.

Chairwoman WATERS. Thank you. The gentleman from Missouri, Mr. Cleaver, is recognized for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman. And I thank the witnesses for being here. Did you bring any of your staff with you? Did any of you bring any staff?

Mr. BEGOR. Excuse me, I couldn't hear the question, Congressman.

Mr. CLEAVER. Did any of you bring any staff with you?

Mr. PECK. Yes.

Mr. BEGOR. Yes.

Mr. BOUNDY. Yes.

Mr. CLEAVER. Are they in here?

Mr. PECK. Yes.

Mr. BEGOR. Yes.

Mr. BOUNDY. Yes.

Mr. CLEAVER. Are they behind—right behind you?

Mr. PECK. Yes, some are right behind us.

Mr. CLEAVER. Can you just raise your hands please? Thank you.

I am not as sanguine about the high level of diversity that somebody mentioned earlier, but let me go to something else. I don't want to suggest that it is easy to do what you are doing, when you have approximately 200 million adults, with your—that you handle with your credit files, it is difficult and 10,000 furnishers, the people who provide information.

But, what I am having some difficulty with is the fact that I am not sure that there is the urgency to clean up this whole system as it should be, and that leads to one other thing that is connected with that. Is the only difference between the three of you, the three credit bureaus, the process—the difference in the process—in the way you process information? Is that the only difference?

Mr. BEGOR. Congressman, if you would like, I will start?

Mr. CLEAVER. Yes.

Mr. BEGOR. I think there are a lot of differences between the three credit bureaus. As you pointed out, central to our business is managing the 250 to 260 million American's credit files that we have responsibility for.

But, there are differences you have heard this morning about some of the technology we have, some of the tools that we are using with consumers and that is what really makes my view this very—a very competitive industry, because we are investing to provide more tools for consumers and for our customers with the financial institutions in order to be an integral part of the U.S. economy.

Mr. CLEAVER. Okay, I am glad you said that. So why do we need all three? Can somebody, in just a short period of time, tell me why we need all three? Okay good, that is what I thought.

[laughter]

So—I'm sorry.

Mr. BEGOR. Well, we are looking at each other, Congressman, and deciding who would answer, so I will be happy to take that first.

Mr. CLEAVER. Well, no, you answered it.

Mr. BEGOR. Okay.

Mr. CLEAVER. I think what you said earlier is one answer, but can the other two respond, Mr. Peck and Mr. Boundy?

Mr. PECK. Yes, Congressman, so there are actually hundreds of CRAs. There are specialty CRAs that deal in different kinds of data that we don't deal in. We happen to be the three national CRAs that have evolved over time. I think having more than one creates substantial competition between us.

Mr. CLEAVER. What is the competition?

Mr. PECK. We are competing for the ability to actually provide the best information on a consumer as possible, both to the consumer and to the businesses that are trying to lend to the consumer.

Mr. CLEAVER. But when you say competitor, does that mean somebody has a choice?

Mr. PECK. Congressman, they do have a choice. The lenders have a choice and the consumers do have a choice, if they want to use one of our particular services—

Mr. CLEAVER. To the exclusion of the others?

Mr. PECK. —for certain things to the exclusion of the others.

Mr. CLEAVER. But what information would you have for credit that the other two would not have?

Mr. PECK. I don't know if you want to get that one? But, we have access to certain utility information that others might not have because of relationships we formed. We have certain access to rental information that others might not have because of the relationships we have formed.

We have access to trended data because we have been saving it over a 30-month period that the others may not have. So, that is an example of the kinds of data we might not—

Mr. CLEAVER. So, Mr. Boundy, the three of you are competitors? Is that right?

Mr. BOUNDY. Congressman, I have six-and-a-half thousand employees here in the U.S. who are proud every day to come to work, to do a great job for the consumers they serve and the customers that we serve and that is what we concentrate on in our business.

Mr. CLEAVER. Yes but—okay, nobody answered my question. Madam Chairwoman, I apologize. Nobody answered the question. I just need you to point out why we need three agencies and you say you are competitors and none of you said anything to prove you were creditors. Thank you.

Chairwoman WATERS. The gentleman's time has expired. Mr. Williams from Texas, you are recognized for 5 minutes.

Mr. WILLIAMS. Thank you, Madam Chairwoman. Thank you all for being here, and as a small business owner, and as a capitalist, I might add, I know firsthand the value of complete and accurate credit reports in making sound business decisions.

For those of you who are not aware, I am a car dealer. I have been a car dealer for 50 years, my family for 79 years. We work with lenders to see what terms they can offer prospective buyers

to finance one of our cars. The lender's ability to offer risk-based pricing is essential in any business that relies on lending and financing.

So, Mr. Boundy, can you elaborate on what Experian has done to improve the accuracy of credit reports since the CFPB began supervising and examining your company? And I have questions, so we will go here, okay?

Mr. BOUNDY. Congressman, absolutely. We have a large team of employees who concentrate on improving the accuracy of data and applying a range of rigorous checks, over 400 of those checks.

And, in fact, if the people providing the information don't meet our standards, we end up terminating them. We have terminated over 100 of those data furnishers over the last 3 years and now we are moving to make sure the consumers can add information onto their own credit file, make sure they can walk onto your lot and walk off with a car straightaway.

Mr. WILLIAMS. Okay, as a small business owner and a capitalist, as I said, I am going to get as many people into new cars as possible, as long as the lender is willing to give out loans.

Now whether a person is buying a car, a private jet or even a cow, the lender needs to be paid back in order to continue offering lines of credit to other people in the community.

A deal is a deal in America and people need to pay their debts. I am worried that this committee is going to go down a path where lenders are receiving credit reports that have been scrubbed of all negative credit information. Mr. Peck, can you go into some detail, quickly, about the potential risk of removing damaging information from a person's credit history?

Mr. PECK. Thank you, Congressman. So if we would blindly remove information, there could be unintended consequences. And so, whenever you are going to do something like that, even when you add information, you need to prove that it, statistically and empirically, will do the job it is intended to do.

So the danger is, if you remove something without thinking through the negative implications, you could increase the cost of credit to everybody because, ultimately, when people don't pay back their loans, the cost of credit goes up.

Mr. WILLIAMS. I agree totally. Mr. Begor, in your testimony you mentioned that Equifax has been investing substantial amounts into technology and security. Can you, quickly, elaborate on these investments, and how they are making consumer data much more secure so we do not have a repeat of the data breach?

Mr. BEGOR. Yes. Thank you, Congressman. As I mentioned in my oral testimony this morning, it is our goal to be an industry leader on data security. And that $1.25 billion we are investing in 2018, 2019, and 2020, incremental to our normal spend is all focused on bringing the very best technology into Equifax that is available anywhere in industry.

And whether it is perimeter security, encryption technology, bringing some of our systems into the newest forms of technology, that is really the focus of that investment, so we can be an industry leader around data security. We know that we are entrusted with protecting that data, and we take it very seriously.

Mr. WILLIAMS. Thank you. One of the things we have been talking about is complaints. And I just made a note here that we can't get complaints confused with not paying your bills. That is just a statement that I have. Before my time ends, I wanted to ask each of you a yes-or-no, simple question. We can start on the left. Do you think that the government can establish a credit reporting agency that is better than each of your representative companies?

Mr. BEGOR. No.

Mr. PECK. No.

Mr. BOUNDY. No.

Mr. WILLIAMS. It would cut out competition is what it would do. We have talked a lot about that. And then, finally, I want to ask each one of you, are you a capitalist or a socialist? We will start here on the left.

Mr. BEGOR. Congressman, a capitalist with a soft heart.

Mr. PECK. I would lean more towards being a capitalist.

Mr. BOUNDY. Congressman, I am proud to run a business in the United States with six and a half thousand employees that come to work every day to do a great job.

Mr. WILLIAMS. Well, thank you. Just in closing, I want to thank all of you for what you do. Being a person in the lending business, your reports are important to us, not only to the sellers, but to the consumers. So thank you for that. I yield my time back.

Chairwoman WATERS. The gentleman from Colorado, Mr. Perlmutter, is recognized for 5 minutes.

Mr. PERLMUTTER. Gentlemen, thank you for your testimony, and just a couple of questions. Mr. Cleaver was asking, why shouldn't there only be one of you? My question is, why aren't there more of you?

Let's talk about the secret sauce, the FICO scores where somebody came up with an algorithm, and you guys modify these algorithms. I don't understand them. Why aren't there more of you? Why are there only three of you? And that is the problem that I see. And that is why you are getting some extra scrutiny here. Mr. Begor, why aren't there more than three of you?

Mr. BEGOR. Congressman, you know, first off, we have tried to portray this morning, I think, in some of our comments that there's intense competition between the three of us. And the $1.25 billion investment that we are making is a very sizable amount. As Mr. Peck testified a few minutes ago, there's more than the three of us. There are hundreds of data furnishers and credit reporting agencies that have different types of data that are in the industry.

Mr. PERLMUTTER. Mr. Peck, but why, today, are there just three of you? Whenever we talk, it is always TransUnion, Equifax, and Experian. Full disclosure, I am an Experian customer. I am one of the, sort of, three areas. They sell data to the masses. They sell data or they provide services to creditors. And then they sell back to me so that I can see what my credit score is from month to month to month. But why are there only three of you?

Mr. PECK. That is a good question, Congressman. Over time, the three have emerged. And it was largely a kind of geographic thing. But if you really look at the industry overall, there literally are hundreds of CRAs that are looking at different ways to collect dif-

ferent kinds of information. They are regulated by the FCRA. There are also many, many analytics firms. You mentioned FICO.

Virtually every lender has their own scores as well. So there's, I think, very intense competition, which has been fueled by, for example, FinTechs, who get access, by the way, to all of this information that the big banks—I think the big banks, and I can't remember the number, but they hold the majority of the data. The CFPB has those numbers.

If they weren't sharing that information into a credit bureau system like this, community banks, other small banks, FinTechs, would not be able to compete. They wouldn't get that information. And I think, over the last 3 or 4 years, that has driven a substantial increase in the amount of newer and better products that have gotten in the hands of all different kinds of people.

Mr. PERLMUTTER. But let me just stop you. So the fact that there are only three—well, three major consumer banks. There may be these minors, but when I think of credit bureaus, you are the three that I think of. And I think everybody up here, Democrats and Republicans, you are it.

And so, when there's a breach it is big. When there is a credit breach—when there's a credit breach, it is big. When—you know, and—and I said this to Mr. Boundy, he was in to see me a week or so ago, you know, here I am. I think I have—should have really good credit. I screwed up on something. I paid the wrong amount. Chase cashes the check. But then, unbeknownst to me, you know, reports it as a short check, that I haven't paid enough.

And all of a sudden my wife comes in and says, hey, my credit score just dropped like a rock. You know, and I am going, I think everything's fine. So then you start calling. And you talk to the credit bureau. And then they send you to the bank. And you get the low person on the totem pole.

I guess, the thing that really gets all of us is the fact that even if you have good credit, and you screw up once, it seems to have a really bad effect on your credit, which could hurt you for a long time to come. So I am a little bit happy to hear about this other product that you have, Mr. Boundy. So if I gave you my utility bills, how's that going to help me fix it when I screw up?

Mr. BOUNDY. Congressman, thank you for the question. The way that the Experian Boost product works is it allows you to go online for free, and take information from your bank accounts and contribute that directly onto your file, and increase your score as a result of proven payment history, for example, of your utility bill.

Mr. PERLMUTTER. Okay. I understand where the chairwoman is going here, though, with wanting to look into this situation because we really only have three. There may be smaller varieties out there. But the fact is you have a ton of information on all of us. When something goes awry even it is because of what I did. It was my mistake. But something small that I fixed right away. I have not been able really to repair in two years now and I hear about it from my wife on a pretty regular basis, because she had impeccable credit until I screwed up.

So the effects that you guys have is long-lasting and across the board and there is a real desire on our part to make sure that

there is good communication between you and the banks and all of us to help us do a better job. I yield back.

Chairwoman WATERS. Thank you. The gentleman from Georgia, Mr. Loudermilk, is recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Madam Chairwoman. Thank you all for being here. Being a former business owner, mistakes and errors happen. None of us are perfect. We do not live in a perfect world, but the mistakes that happen in your business do have a profound effect because it affects the livelihood of individuals.

Mr. Peck, I will start with you and ask, when there's an error on a credit report, that is information that is provided to you by a creditor of some type, right?

Mr. PECK. Most often a creditor, yes.

Mr. LOUDERMILK. Okay. When somebody—a consumer notices through something like Credit Karma or something like that and they contact you, do you have any way of assisting—or do you attempt to assist the consumer in cleaning it up and how to clean it up?

Mr. PECK. Yes. If they dial into us we answer the call in 30 seconds. If they dispute online, which is becoming more prevalent, we take in their data. They have an automatic way to upload the documentation that supports their dispute. We get in contact with the furnisher or the lender and we try to help them resolve that dispute.

Mr. LOUDERMILK. So if the lender—do they have a timeframe that they are supposed to respond by?

Mr. PECK. Yes, if they don't respond within 28 days, then we close the dispute in favor of the consumer.

Mr. LOUDERMILK. Okay. Does Equifax do the same?

Mr. BEGOR. We do, Congressman. And as I mentioned in my testimony, we are investing more dollars to make that even easier for the consumer to process that dispute, quicker call response time because we know it is an anxious time for the consumer when they see an error on their credit report.

Mr. LOUDERMILK. How long, let us say when they claim their report up, how long does it take to reflect in their credit rating? Is it immediate? Is there usually a time after the 28 days or whatever?

Mr. BEGOR. I'm sorry?

Mr. LOUDERMILK. Let me ask—do you have a timeframe as well?

Mr. BEGOR. It happens almost automatically.

Mr. LOUDERMILK. Okay.

Mr. BEGOR. In a kind of overnight fashion. When that dispute is repaired, it will update their credit scores and go all the way through the system.

Mr. LOUDERMILK. Okay, Mr. Boundy?

Mr. BOUNDY. Yes, Congressman, it would very be similar practices from Experian.

Mr. LOUDERMILK. Okay. How long has this been in place—this type of, Mr. Peck, of customer assistance and the timeframes?

Mr. PECK. So the process of consumer dispute has been in place since the FCRA legislation came out. In my view, over the last 5 years, 7 years, the dispute process has improved substantially be-

cause of the use of online tools. I think the credit bureaus frankly have gotten much more focused on doing a better job at it.

Mr. LOUDERMILK. Okay, thank you. I appreciate that. Mr. Boundy, I did a little research on complaints before this hearing and from what we found out Experian had about 95,000 complaints to the CFBB since 2012. Does that sound about right?

Mr. BOUNDY. I don't know the exact number, Congressman, but I think that sounds about right.

Mr. LOUDERMILK. When we ran the numbers—that sounds kind of high but when we ran the number that is about 0.5 of 1 percent of your customers which actually sounds pretty good when it comes to customer satisfaction. Mr. Begor, do you guys track customer satisfaction ratings at all?

Mr. BEGOR. We do. In our call center we do call recordings to coach our call center associates on how to be strong in customer service and we are focused on improving that service.

Mr. LOUDERMILK. Okay. Well, I don't envy the position you are in. I think as my colleague, Mr. Williams, said, it is important to actually helping keep our interest rates down but it is a frustrating process when you do have something wrong. My grave concern over where we are going with all this is the government getting more engaged in it because quite frankly the agency that has the lowest customer satisfaction rating in the entire United States of America is the United States Government, by far.

At the bottom is the Veteran's Administration and Treasury. Now if they would adopt the same procedures that you have for resolving disputes, I think that would go up because we regularly deal with constituents who, with the VA, who has data that is wrong about a veteran that we have sent the right data. We have some who are now on their 13th year trying to correct that information.

I have constituents who are on their fifth and sixth year trying to correct data with the IRS in the Department of the Treasury. We have the same thing with the housing agency, with HUD. Those are the three of the lowest of the lowest and so my concerns is as Congress goes forward is while there are issues definitely with these agencies that need to be corrected, are we just going to make them worse by getting the government involved. With that, Madam Chairwoman, I yield back.

Chairwoman WATERS. The gentleman from Florida, Mr. Lawson, is recognized for 5 minutes.

Mr. LAWSON. I thank you very much and welcome to the committee. The question that I have is a certain segment of the population does not have access to credit and I might say not a certain section but a large section. This means that they do not have a credit score. As all of you know, no credit score is just as bad as low credit score.

How can we utilize alternative proofs of someone's ability to pay—approve a payment included utility bill, cell phone bills, and maybe even cable bills to determine what kind of credit score, and all of you all can respond to that because in certain segments of society, people do anything sometimes to pay their utility bill, cable bill and so forth but they still might have a really bad credit score. How do you handle that situation?

Mr. BEGOR. Congressman, I will go ahead and start. We believe that one of the roles we play is really helping those disadvantaged Americans who don't have access to the traditional credit file. There are upwards of 26 million Americans who are not in the credit system. There are another close to 19 million who have what they call a thin file, meaning they are in the credit bureau but they have no trade lines, meaning they don't have any financial records.

So like our competitors, we are constantly looking for alternative data like cell phone, like utility payments, like rental payments that we can bring into our financial partners and really help in that credit decisioning for that consumer who is not in the traditional financial system.

Mr. PECK. Congressman, my answer would be very similar to Mr. Begor's. It is—we are trying to find information—information or payment data on things that people are using in their regular everyday life, wireless phones, cable, rental, that shows a sustained ability to discipline themselves to pay for those things and then that does find its way into the credit score and increases their access to credit.

Mr. BOUNDY. Congressman, thank you for the question. I think you are absolutely right, in fact if you want to do that at Experian you can do that straightway today. You can come to Experian.com, you can select to boost your score, you can add that information immediately onto your credit file, your score will immediately reflect and increase as a result of that if it is appropriate. In fact I heard about one consumer increasing their score by over 70 points.

Mr. LAWSON. Thank you very much. My other question is, you know, when I was in college, I was very popular my senior year; everybody wanted to give me a credit card. As a result of getting all those credit cards, 2 or 3 years later when I was trying to get a home, it was a situation where they said I had missed a couple of payments.

It was causing a problem. I have probably over 100,000 students throughout my district in 4-year institutions and community colleges and so forth and they have a lot of things going on in terms of using credit cards to make payments. Do you all take that into consideration 2 or 3 years later when you have a score that you are trying to apply for different things and the credit starts to reflect some of those options that they made? Anyone can respond to that.

Mr. BEGOR. I will go ahead and start. Congressman, as you may know, credit scoring systems that we use and the financial institutions use really the predictive nature of a missed payment that is 2 years ago, 3 years ago, 4 years ago, 5 years ago, is less relevant and becomes less a part of that credit decision. Something that is missed last week, last month, you know in a recent period, is much more weighed into that credit decision.

Mr. LAWSON. Right, quickly, because of all the hurricanes that we had, this Hurricane Michael you know in Florida and a lot of things happened, and are still going to happen with people's credit, and so forth, how do you weigh in on that?

Mr. BEGOR. Congressman, as you may know, in the situation of a hurricane we will work with the financial institutions to make sure they understand the impacted consumers or another natural disaster we have actually are doing the same thing with regards

to furloughed government workers from the recent government shutdown and we also offered free credit reports to the furloughed government workers so they could really understand where they may have missed a payment and helping them communicate that to the financial institution.

Mr. LAWSON. Does anyone else care that I have about 10 seconds left?

Mr. PECK. I was more or less, Congressman, going to answer the same way. The example is with the recent government shutdown it is advertising that there is help available, we had professional counselors counseling the people who might have been affected on how to talk to their furnishers or their lenders. We talked to the lenders and said here's what you can do to indicate that this person wasn't really late on a payment.

Mr. LAWSON. Okay, I yield back.

Chairwoman WATERS. The gentleman from Ohio, Mr. Davidson, is recognized for 5 minutes.

Mr. DAVIDSON. Thank you, Madam Chairwoman, and I thank our witnesses and thank you for the work you do to make sure that our consumers have access to credit. Mr. Peck, would you agree that it is accurate that the purpose of credit rating agencies is to help those who would extend credit to consumers to accurately assess risk of default or timely repayment?

Mr. PECK. Yes I would, I would also say it is to help consumers have kind of an independent view of who they are without regard to race, religion, or gender.

Mr. DAVIDSON. Thank you. Mr. Boundy, a topic that is very near and dear to me and to millions of Americans and a big part of why all three of you are here today is data privacy. The E.U. has moved forward with their own data privacy legislation called the General Data Protection Regulation or GDPR for short. Are you familiar with GDPR?

Mr. BOUNDY. I am familiar with it in principle.

Mr. DAVIDSON. Thank you, in response, your U.K. branch said preparing for GDPR has had a significant impact on U.K. organizations in terms of cost and effort. Do you still agree with that statement?

Mr. BOUNDY. I agree with the statement that we made.

Mr. DAVIDSON. So, clearly it is a dynamic change to privacy laws for Europe, and I am particularly curious about how the GDPR's consent regime which requires that processing can only occur if the data subject gives informed and unambiguous—I understand—a clear and affirmative act establishing a freely given specific informed and unambiguous indication of the data subjects agreement to the processing of personal data related to him or her such as by written statement including by electronic means or oral statement.

To me, that is potentially legally confusing, and I am sure it caused a lot of changes for your company as it has for many others. But it is very different than the opt out regime that we have in the United States under Gramm-Leach-Bliley. How do credit reporting agencies then lawfully process personal data under GDPR and should that be a model for the United States legislation?

Mr. BOUNDY. Well, Congressman, it is a complex topic, but in fact there are a great many similarities between the way that the

GDPR legislation is applied to the credit bureaus and the financial system in, for example, the United Kingdom, as well for the FCRA here in the United States.

Mr. DAVIDSON. Okay, so at the end of the day it is inconsequential then if we just go with the GDPR for the U.S., you guys would be for that?

Mr. BEGOR. Congressman, I am not sure I necessarily agree with that. There are a lot of protections already in place today, and for example the Senate Bill 2155, it was passed last September, it allows a consumer to freeze their file for free—you know gives a consumer a lot of control—

Mr. DAVIDSON. But that is not the same as consent to all the data that is in it. So it is a very different legal framework for the U.S. and I am sure that all of you are aware that the U.S. is contemplating future privacy legislation, and I am very passionate that we get it right. And I am just curious how it would impact.

I trust that it would impact you quite appreciatively, I don't think it is accurate to downplay the seismic shift that GDPR had in privacy framework by saying well it is essentially what we have in America; it is not. The underlying premise is very different. I think, you know, the other big thing is who ultimately at each of your organizations is responsible for security? Mr. Begor?

Mr. BEGOR. It would really be me. The chief security officer reports to me, and also reports to the board. We have a special technology committee and the individual has a dual report.

Mr. DAVIDSON. Thank you. Mr. Peck?

Mr. PECK. It would be me.

Mr. DAVIDSON. Absolutely. Mr. Boundy?

Mr. BOUNDY. It would be me.

Mr. DAVIDSON. I am so encouraged to hear you say that, and that is just so nice to hear that the buck stops here, that everything happens or fails to happen ultimately comes up to the chief executive. Since those have been incredibly valuable and increasingly prominent role the org charts of organization, Mr. Begor could you highlight how your organization has changed the role and responsibility for your system?

Mr. BEGOR. Prior to the data security breach, our chief security officer worked for our general counsel and that was changed right after the data security breach and I continued with the—

Mr. DAVIDSON. Thanks. Any big changes for either of your organizations?

Mr. PECK. From the technology officer and to me. It is a highly technical job. It has no place reporting into the legal department. It also is a culture and so you need this person to have direct access to your head of audit and also to your chairman of the board.

Mr. DAVIDSON. Thank you. Mr. Boundy?

Mr. BOUNDY. No major changes other than it is an incredibly important job to have in an organization. In fact, the accountability sits with every employee in our company to ensure the security.

Mr. DAVIDSON. Thank you. My time has expired and I yield back.

Chairwoman WATERS. The gentlewoman from Virginia, Ms. Wexton, is recognized for 5 minutes.

Ms. WEXTON. Thank you, Madam Chairwoman, and thank you to the witnesses for joining us here today. I represent Virginia's 10th

District, which is just across the Potomac in Northern Virginia, and it has a very high concentration of Federal employees and contractors who were negatively impacted by the shutdown.

Now that the shutdown's over, most of my constituents are back at work, but the challenges they are facing still remain. I am sure you all are aware of that. Prudential Financial recently conducted a survey of Federal employees to see how they were affected financially by the shutdown.

The survey found that more than a quarter of them missed a mortgage or rent payment because of the shutdown, 13 percent missed a student loan payment, and nearly half fell behind on their bills in general.

So, I would inquire of you gentlemen, if you observed any increase or spike in negative credit reporting among folks whom you either have identified as Federal employees or contractors, or that you know are in the region where there are a lot of such employees. I inquire of the panel.

Mr. BEGOR. Congresswoman, thank you for that question. As I mentioned in my oral testimony and my comments earlier, we have great sensitivity to any American who is impacted by any issue, whether it is a hurricane, a wildfire or, in this case, the government shutdown.

We announced on February 1st that we were offering free credit reports for all impacted government workers. We also increased the staffing of our call centers and really made sure they were ready and available to take those inbound calls to help coach the impacted government workers about how to work with their financial institution.

And, as the Congresswoman probably knows, there's an ability to put a note on your credit file to really highlight that you were impacted in that way and that credit file goes to the financial institution as part of the underwriting process for a new loan, a new auto loan or a credit card.

Ms. WEXTON. Just following up on your response, Mr. Begor, as a part of the process, if they did, for example, pay a mortgage payment late or miss a rent payment, that is something that would show up as an adverse event in their credit score, is that correct?

Mr. BEGOR. That is correct.

Ms. WEXTON. Okay, they would have an option to attach an explanatory statement, but it would not, ultimately, help the score that they get.

Mr. BEGOR. That is correct. And they also have the opportunity, which we coach them on, is to talk to their financial institution to really make sure they understand why they missed it and really go through that avenue.

Ms. WEXTON. I think we know why they missed it, because they weren't getting paid. Now, Mr. Boundy, you testified earlier in your prepared remarks that you vet the data provided by the furnishers, is that correct?

Mr. BOUNDY. Yes, Congresswoman, that is correct.

Ms. WEXTON. Is that data—does that vetting process involve the consumers themselves?

Mr. BOUNDY. That vetting process that I was talking about in my testimony involves our employees and our data quality team, put-

ting it through about 400 checks for accuracy. Of course, every consumer is able to access their report for free and check their own information as well.

Ms. WEXTON. But, before that data is entered into your system, is there any vetting that involves the consumer? Or does it just involve the furnishers and double-checking Social Security number, date of birth, geographic location?

Mr. BOUNDY. The information that I was talking about in my testimony is reviewed by our own staff for its accuracy and put through a range of rules and checks to make sure that it is as accurate as possible.

Ms. WEXTON. But, does it involve the consumers themselves?

Mr. BOUNDY. That process does not involve the consumer.

Ms. WEXTON. Now as far as consumer directed or inquiries to a person's credit report, whether they be by a furnisher or a creditor or the consumer themselves, does the number of inquires cause it— does an increased number of inquires cause a decrease in the overall creditworthiness score?

Mr. PECK. I can answer that. So, there are hard inquires and soft inquires. When the consumer themself is making an inquiry to take out credit, and they make a repeated series of many all at once, that can decrease the score when it is a soft inquiry, meaning they have checked their own credit score, meaning they have maybe been part of a predetermined offer of credit, that is a soft inquiry, it would not count against—it shows up in their credit report, but does not count against their credit score.

Ms. WEXTON. So, for example, Mrs. Perlmutter, the spouse of the gentleman from Colorado, she apparently likes to go on the credit reporting bureaus and check her score with regularity, is that an adverse event that would impact—

Mr. PECK. No, that would be a soft inquiry and the reason we keep track of it is we are federally—our regulation says we have to be able to tell her every time somebody, including herself, checked her score, and it is called a soft inquiry.

Ms. WEXTON. Thank you very much. The dispute process—those generally arise when the consumer is denied credit, is that correct? Would you say that is an accurate time that it would be?

Mr. PECK. I think that is—

Chairwoman WATERS. The gentlelady's time has expired.

Ms. WEXTON. Thank you.

Chairwoman WATERS. The gentleman from Tennessee, Mr. Kustoff, is recognized for 5 minutes.

Mr. KUSTOFF. Thank you, Madam Chairwoman, and I do want to thank all the witnesses for being here today for this important hearing. Mr. Peck, if I can go to you, in your statement you talked about at TransUnion alternate data helping 60 billion or some odd credit invisible or you—I think you may have termed it credit disadvantaged customers gaining access to credit by supplementing traditional credit with new insights that reflect broader payment behaviors. My question is, have you seen any type of, for lack of a better way of putting it, negative impact from doing this or from these new insights?

Mr. PECK. Our studies have shown that these impacts are very, very positive. I would have to go back to look at the report to see

if there was any kind of negative impact, but that is something we would be willing to share with you, Congressman.

Mr. KUSTOFF. Thank you. Do you see any potential risks by doing this?

Mr. PECK. Congressman, I think the risk would be that the furnishers are doing this on a voluntary basis, and so because they are doing it on a voluntary basis, if there is a negative impact, then they would have to be able to respond to us.

And, I think, that is part of the conversation this committee needs to have as we look for more and more sources of alternative data. We have to encourage the suppliers of this kind of alternative data that they are going to have to comply with the FCRA in order to supply the data.

Mr. KUSTOFF. And when you talk about encouraging those suppliers, are you saying reluctance, or are you saying openness, or how would you characterize it?

Mr. PECK. Congressman, that is a good question. I would characterize it as that we likely receive more negative data on these types of things than positive data. And the positive data is what really makes a difference to people. Of course, the negative data makes a negative difference to people.

And so, to really get a full profile, let us say, of the modern American who has a cell phone, who's paying their cable bill, making rent payments, perhaps, because they can't afford a home right now. You want all of that positive data to be part of a credit report.

Mr. KUSTOFF. Thank you, Mr. Peck. If I can, I would like to open this up. And I think there is a difference of opinion, in terms of how we approach credit reporting modernization. The legislation drafted by the chairwoman approaches reform by making it easier for consumers to address issues with credit scores by creating processes to remedy mistakes and remove adverse findings. My question, I guess, Mr. Boundy, is to you. Do you have any concern, whatsoever, that this might raise costs? And would it protect consumers seeking credit?

Mr. BOUNDY. Congressman, thank you for the question. I agree with the aims of the committee, which are to improve people's access to credit, and the accuracy of credit reports. This is really important.

One of the reasons that I have talked about that we have launched the Experian Boost product is to find ways to access that different information, and allow consumers to increase their credit score. So I am always concerned about anything that could impact the consumer's ability to access credit, and the cost-effectiveness with which a financial institution can provide the credit.

Mr. KUSTOFF. Do you think it could adversely affect the cost to the consumer?

Mr. BOUNDY. I think removing some information, if it is proven to be very predictive, could impact the cost.

Mr. KUSTOFF. And do you have any idea, the extent that it could affect the cost?

Mr. BOUNDY. I don't have any idea of exactly what that would be, but I would be very happy to work with the committee and get back to Congress with more details on that.

Mr. KUSTOFF. If you could look and try to analyze what you think the cost would be to the consumer and get back to me, I would appreciate it. Mr. Begor, if I could, to you as well, the same question and the same premise. Do you have an opinion, from your standpoint, whether that could affect cost, ultimately, to the consumer?

Mr. BEGOR. Similar to Mr. Boundy's testimony, that, you know, we believe that more data is going to be more valuable for all Americans, and including alternative data is important. But first and foremost, having accurate data is quite critical. And that is the focus that we have in our internal processes, and also making it easier for consumers to process disputes. And I think, as the Congressman knows, in the last 5-plus years, the CFPB has been very active, both, with us, and furnishers around the accuracy of data.

Mr. KUSTOFF. But would that, ultimately, affect the cost to the consumer?

Mr. BEGOR. It could. And it could impact the cost to all consumers if the wrong data was removed from a—the data files.

Mr. KUSTOFF. Thank you very much. I yield back the balance of my time.

Chairwoman WATERS. The gentlewoman from Michigan, Ms. Tlaib, is recognized for 5 minutes.

Ms. TLAIB. Thank you, Madam Chairwoman. Hi, how are you guys? I always feel like—I don't know if it is because I am new, or—but I feel like it goes so long, and the monotone is the same, and I know the chairwoman wouldn't like me to ask all of us to stand up and stretch, but I do appreciate this. This is a really critical issue in my district. I represent part of Detroit, but also these Wayne County communities. And we actually have the largest car insurance rates in the nation.

In one of my ZIP codes, I think the average is over $5,000. And my question is, do you, as agencies—and I am pretty sure it is a yes—transmit credit scores to car insurance agents—industry?

Mr. BEGOR. Yes, we do.

Mr. PECK. Yes.

Mr. BOUNDY. Yes.

Ms. TLAIB. What does a credit score say about the person's driving history, or their potential for accidents? Anybody, Mark, James, Craig, you can call me Rashida.

Mr. BEGOR. Congresswoman, I can't really respond to how an insurance company uses the data. Maybe one of the other CEOs could.

Mr. PECK. I can't really respond either, Congresswoman, other than that it is just one of many, many factors that goes into deciding how much the cost of insurance is for an individual.

Mr. BOUNDY. Yes. I don't have a different answer, Congresswoman.

Ms. TLAIB. Yes. So one of the things that I have talked to the chairwoman about, and some of my colleagues, is—you know, I have a resident. She worked at Beaumont Hospital in Michigan for over 25 years, steady income, great credit score—decent.

As soon as she retired, obviously her fixed income—her income got lower. It impacted her credit score. She had no idea until she

got her increase in her car insurance rate. And it went up over $400 or $500. And it is still going up almost every single year.

And she called them, and she asked what was the problem—what was the issue? I haven't gotten in a car accident in 55 years. Not one ticket. You know, she went to work, came back, and now she just goes grocery shopping, or she sees her family. She is an incredibly responsible driver. And their answer was her credit score dropped.

And she said, I don't understand how that impacts my driving record. And I asked this—all of you is, you know, I want to introduce a bill that basically says that you can't provide credit scoring—a credit score to the car insurance or the automotive—the auto insurance industry because there is no connection with somebody's driving record and what their credit score is. And I would like to hear from you all. And I know this is a risky answer, but would you support something like that?

Mr. BEGOR. Congresswoman, I really can't give an opinion on that because I don't know enough about how the insurance industry uses this data. And I think, as Mr. Peck pointed out, I am sure it is one of multiple data sources they use, including, you know, the driving record of the individual. But again, I am not skilled enough to provide an answer.

Mr. PECK. Congresswoman, I would encourage you to dig into it, and ask—

Ms. TLAIB. I intend to.

Mr. PECK. Exactly—and I imagine you do, but exactly how are you calculating the difference in scores that would impact a driver's rating, which is, as you know, what drives their insurance rate.

Mr. BOUNDY. Congresswoman, it is a complex issue that sounds like it is definitely worthy of further study.

Ms. TLAIB. So I read somewhere that some in the car insurance industry feel that if their credit score is lower, the likelihood of them committing a crime is higher—a crime of fraud. And if you read and dig deep, many experts say, well, wait a minute, you are punishing somebody for being low income because most people's credit score is not because they haven't paid a bill.

Some it is because they haven't got access to credit. And like you talked about some of the services. And so, for my folks, I have the third poorest congressional district in the country, it is not because somebody forgot to pay a bill, or, like one of my colleagues, paid a little bit less than he was supposed to.

It is because they have no access to really bringing up their credit score, or to—to any equity. And so, it is something that is very disturbing because in Michigan there is no real transit system. The only way to get around, to get into a job—70 percent of folks in the City of Detroit actually work outside—like 60 percent work outside of the City of Detroit.

So they have to drive somewhere. And more and more of our residents are driving without car insurance because of this issue around credit score—with the use of credit score. And so, I want to bring that to your attention. And I hope that you all will work with me and many of my colleagues who will be in full support of saying we have to restrict the use of credit scoring as a basis or a circumstance for auto insurance companies as a driving record

standard. Thank you so much for your time. And thank you, Madam Chairwoman. I yield back.

Chairwoman WATERS. Thank you very much. The gentleman from Tennessee, Mr. Rose, is recognized for 5 minutes.

Mr. ROSE. Thank you, Chairwoman Waters, and thank you to the three witnesses on the panel today. The proposed Comprehensive Consumer Credit Reporting Reform Act, I assume all three of you are familiar with the terms of that proposed legislation?

Mr. BEGOR. Yes.

Mr. ROSE. As I understand it, credit bureaus the three organizations that the three of you represent, have pushed for alternative credit information from entities such as telecommunications and utility companies, yet many of those companies, as I understand it, are reluctant to provide consumer payment data because it might subject them to the Fair Credit Reporting Act. Is that a similar concern that you would have?

Mr. PECK. I would say generally in discussions that would be true, Congressman.

Mr. ROSE. The legislation institutes new requirements on furnishers including the establishment of a new regime for reinvestigations upon request by consumers at an appeals process following such reinvestigations. I am not convinced these changes would incentivize more companies to furnish data to credit bureaus. Does this have the potential and this is a question for all three of you, does this have the potential to undermine the mission of growing the number of qualified borrowers in the United States? Mr. Begor?

Mr. BEGOR. I think, as the Congressman knows, the furnisher system in the United States today is a voluntary system and it is one where a financial institution makes the decision to contribute their data to the three credit bureaus and our view is that there is a very rigorous process today to really to manage the disputes.

I think you heard in my testimony that we want to take that even to another level and really improve the customer focus that we have in supporting consumers when they have an error or dispute on their credit file.

Mr. PECK. Yes, I really cannot add much more to that view; it is the same view.

Mr. BOUNDY. You know Congressman, I would be concerned about anything that meant we didn't have an accurate representation of a consumer and therefore helped them get access to credit.

Mr. ROSE. Would lowering the amount of time that adverse credit information stays on a report tend to result in a higher cost to consumers, to borrowers?

Mr. PECK. Congressman, thanks for the question. I will reiterate my view. I think when we start talking about taking things on and off credit reports, we should actually do the statistical analysis because we can, as an industry, to determine what would happen and that would include the lenders and if it were to result in, you know, more defaults that cost would ultimately be passed on to the consumers through higher interest rates.

Mr. ROSE. Is it safe to say that financial institutions buy credit reports in order to accurately price the credit risk of an individual?

Mr. BEGOR. That is correct, Congressman.

Mr. ROSE. So surely there is room for debate on specifics of how to deal with disputed information on a credit report, but it seems clear to me that mispricing credit risk is the root cause of many defaults. Would you agree with that?

Mr. BEGOR. Congressman, I would. That is really what financial institutions to charge to do is really assess the credit risk of an individual consumer when they are renting, a mortgage, a loan or any other financial transaction.

Mr. ROSE. My experience personally is that government is rarely good at doing anything, and so my general approach to whether government should be telling us how to evaluate credit risk or whether the private market should be helping us figure out how to evaluate credit risk is that I want to always place my bet on the private market.

So I commend your companies for the service that you do to the American public by helping our financial institutions adequately assess the risk of we as consumers, and we come forward to them and I hope that this body does not get carried away with trying to substitute whatever agenda it might be pursuing for making sure that you are able to act to adequately access the information and provide it to your consumers that would allow them to fairly and accurately price credit so that all of us in turn can continue to work in a credit industry and existing in one, which is frankly the envy of the world in terms of properly assessing risk.

Thank you for being here today. I yield back the balance of my time.

Chairwoman WATERS. The gentleman from California, Mr. Sherman, is recognized for 5 minutes.

Mr. SHERMAN. We have an amazing consumer credit system in this country. It would have been unheard of 100 or 200 years ago. Ordinary working people borrowing hundreds of thousands of dollars when they buy a home; tens of thousands when they buy a car; borrowing from people they have never met.

That can happen because you do your job and we want to make the credit reporting system better but we should respect that having a credit reporting system is what allows people to get loans and while we will curse a situation where we are denied a loan unfairly, where through inaccuracy it is amazing to have a system where ordinary people can get loans from folks they have not met.

I want to focus on the gentleman from Equifax. You had 145 million records stolen. As far as I know, we still don't know who hacked your system or what they used the information for. They obviously put tremendous effort into hacking you. And then they don't seem to have used that information unless they are perhaps a foreign spy agency that only was interested in the records of a few dozen or hundreds of American intel personnel looking for the one who is in desperate need of cash.

Do you have any insight at all as to why somebody would spend such tremendous effort and it would be the effort of a whole team of individuals to hack you and then not use the proceeds of what they got? Mr. Begor?

Mr. BEGOR. Thank you, Congressman, for the question. You are correct in that our forensic efforts internally watch the dark web quite closely since the cyber security incident and we have seen no

instances as you pointed out where the data has been used in any fashion. Typically when data like this is stolen, it will be used and sold on the dark web for identity theft purposes and we haven't seen any instances of that. It is difficult for me to give—

Mr. SHERMAN. Well, there are 145 million Americans whose data was stolen, and a somewhat smaller number whose data wasn't stolen. Everybody is subject to some identity theft. Are the people whose identity was stolen from you subject to more identity theft, so far, than the people who weren't?

Mr. BEGOR. We haven't seen any instances, Congressman, of increased identity theft related to our data. We are able to watch that on the dark web and to date we haven't seen that.

Mr. SHERMAN. Okay. For a while you were providing some free credit monitoring, you have stopped?

Mr. BEGOR. That is not correct, Congressman. We offered free credit monitoring right after the data security breach in 2017, not only for those who were impacted, but every American, regardless if they were impacted or not. And in November of 2018, when that one year was up, we voluntarily extended it for another year.

Mr. SHERMAN. For only those people who had signed up or what about people who didn't sign up yet?

Mr. BEGOR. Just for those who had already signed up, Congressman.

Mr. SHERMAN. So, only 2 million out of 145 million signed up? What about the other 141 million, can they get anything?

Mr. BEGOR. There were actually 4 million who signed up right after the data security breach—

Mr. SHERMAN. Four million, okay. So, that still leaves 139 million, can they get anything?

Mr. BEGOR. Correct. And we have other services, like the free freeze, where a consumer can freeze their credit bureau, which protects that.

Mr. SHERMAN. Now, I might want to freeze because my data was stolen from your network, but I would want to freeze with you and your two colleagues up there. Do I have to pay money to them to get that freeze?

Mr. BEGOR. You do not. As the Congressman may recall, Senate Bill 2155 that was passed last September provides a free freeze for all Americans and then Equifax also has a free for life product that we rolled out, right after the data security breach, that is a mobile application to lock and unlock your credit file.

Mr. SHERMAN. Okay, a number of us including the chairwoman, Mr. Meeks, et cetera, have legislation to focus on those employees of the Federal Government and contractors who weren't getting paid during this shutdown or, god forbid, the next shutdown.

It is my understanding that some of you are footnoting the disclosure and saying, hey, this person didn't pay their electric bill, but by the way, they are a Federal employee and the Federal Government wasn't paying them. But that is a footnoted disclosure is better—isn't as good as no disclosure at all. It is my understanding that you would need legislation to simply make it like it never ever happened.

Do you support legislation that would instruct the credit rating agencies to expunge from the record the non-payment of bills by

Federal employees who weren't being paid during the period of time they weren't being paid and for a month or two after? I will go down—which of you support the legislation? Which of you oppose?

Mr. BEGOR. Congressman, I will start. We don't think the legislation is necessary, because there are other tools in place to support those impacted government employees.

Chairwoman WATERS. The gentleman's time has expired.

Mr. SHERMAN. I will ask to just get a yes-or-no answer from the other two.

Mr. PECK. We would support the legislation.

Mr. BOUNDY. We don't think the legislation is necessary, because there are other tools.

Mr. SHERMAN. I yield back.

Chairwoman WATERS. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. STEIL. Thank you. We all want to ensure that consumers have access to credit and transparency and accuracy of those reports is critical. And so, where there are errors, you are called upon to make those corrections. And all three of your companies operate around the globe, is that correct?

Mr. PECK. Yes.

Mr. BEGOR. Yes.

Mr. BOUNDY. Yes, that is correct.

Mr. STEIL. And so, in each of those jurisdictions there are different rules of the road that are implying and determining what records are accessible, what records are available and have a significant impact on a borrower's ability to access credit, correct?

Mr. PECK. Correct.

Mr. BEGOR. Yes.

Mr. STEIL. And those systems are obviously different across the globe, and I would love to tap into your experience and see a number of those countries have experimented recently in different areas of how those credit reportings are available. Could you comment, maybe Mr. Peck, on what has been done in the foreign markets that has harmed consumers' access to credit that we have seen globally?

Mr. PECK. Thank you for the question, Congressman. Without saying which country—but I would willing to come and talk to you specifically.

Mr. STEIL. That is fine.

Mr. PECK. There have been some that have over a several year period just not forgiven the debt, but forgiven any record of the debt on anyone's credit report. And I won't say chaos ensued, but it was very hard then to determine who to lend to, and so the cost of debt went up substantially in those areas.

In other countries where they have tried to replicate a lot of the regulation that this body has passed here, the FCRA and others, they are building a middle class and it is really probably one of the most satisfying things about my job at TransUnion is watching groups of people, whether it is microlending or otherwise, be able to get access to loans to clothe their children, to ultimately be able to send their kids to schools and it is built on the fact that we are

able to report information when consumers take out the loan to get them to opt into the system, just like the FCRA.

Mr. STEIL. So, this example where the country came in with a law that said they are going to wipe out historical records, actually when you socialize that and you remove that, you are actually damaging people who have good credit history.

Mr. PECK. It did damage the economy for some period of time.

Mr. STEIL. Mr. Boundy, Mr. Begor, have you seen other examples of countries that have put in place laws that more or less are socializing that credit risk?

Mr. BEGOR. I think Mr. Peck outlined it well, the same thing that we have seen in some countries. From my perspective, the U.S. credit bureau system is the envy of the world. The system that we have and the way that it operates, so the depth of the data, the furnishers that provide the data and how it is used is really the envy of every country that I meet with.

Mr. BOUNDY. I don't have any other good examples that spring to mind, Congressman.

Mr. STEIL. Okay, so I think the walk-away there is that the more we have records that are accurate, the more reliable data we have, the better we are to be able to properly access risks and give people those opportunities to obtain the loans that they need to go about their life. Thank you very much. I yield back my time.

Chairwoman WATERS. The gentleman from Illinois, Mr. Garcia, is recognized for 5 minutes.

Mr. GARCIA OF ILLINOIS. Thank you, Madam Chairwoman, and thank you all for your testimony. My question is for Mr. Begor. In your testimony you stressed that Equifax understands the financial stress suffered by Federal employees, contractors, and their families during the shutdown. And you mentioned that your firm has announced a free credit report service for those affected by the shutdown.

One week before this free credit report service was announced, a coalition of consumer and civil rights groups wrote to you and to other CEOs testifying today to urge that credit bureaus, "institute a special program of credit report relief for employees of Federal contractors and employees of small businesses affected by the shutdown." I would ask unanimous consent that that letter be entered into the record, Madam Chairwoman.

The measures that consumer groups recommended went beyond just a free credit score, however, and included the opportunity to have negative information removed from their credit reports if consumers could prove that they had lost income due to the shutdown.

So, question, Mr. Begor, did Equifax take the recommendation of these consumers and civil rights advocates into consideration when it implemented the free credit report service, and if so, why hasn't their full recommendation been followed?

Mr. BEGOR. Congressman, thank you for the question. We did receive those inquires as well as a letter from Chairwoman Waters asking us to do the same thing. We responded quickly through the free credit report and we offered more than the free credit report. As Mr. Peck talked about earlier, like in TransUnion, we trained our call centers associates to be ready for those inbound calls from the impacted consumers.

And I would also highlight that this is one instance of where we are trying to give the right humanitarian effort when there's a hurricane, or a wildfire that impacts consumers and impacts their ability to pay, we do the same thing.

With regards to taking data off of the credit file, we don't have the ability to do that. That is done by the furnisher or the financial institution, they own that data, they are the ones who are responsible for it and as I mentioned earlier in my testimony, we really work with the consumer, the individual who is impacted and really give them the coaching to talk to their financial institution about what was impacted as well as if they would like to put a note on their credit file about their situation which will be shared with the financial institution for future transactions.

Mr. GARCIA OF ILLINOIS. Thank you. Mr. Peck and Mr. Boundy, why haven't your firms offered any credit relief measures to those affected by the shutdown or am I missing something?

Mr. PECK. Congressman, I believe we did offer this similar relief as we offered to the regular employees. Specific to taking negative information off their credit report, we discussed with the furnishers and the affected parties that they called that there could be something called a forbearance code put on the credit report, that was—that is the only avenue we had to educate and to do something about that.

Mr. GARCIA OF ILLINOIS. Mr. Boundy?

Mr. BOUNDY. Congressman, we do and have been offering free credit reports and free credit monitoring to anybody impacted, either employee or contractor, and have also worked with the lenders to provide the opportunity to miss a payment, what Mr. Peck referred to, a forbearance code. And we put clear education on our website on how people can do that as well.

Mr. GARCIA OF ILLINOIS. Thank you. I think the fact that none of your firms voluntarily implemented the credit relief measures for those affected by the shutdown beyond the free credit reports offered by Equifax underscores the need to do more and that is why I am proud to be co-sponsoring with Chairwoman Waters, a bill creating a mechanism to identify those adversely affected by shutdowns and to restrict credit rating agencies from including adverse credit profiles for the duration of a shutdown plus 90 days. I yield back the rest of my time, Madam Chairwoman.

Chairwoman WATERS. Thank you. The gentleman from Texas, Mr. Gooden, is recognized for 5 minutes.

Mr. GOODEN. Thank you, Madam Chairwoman. Thank you gentlemen for being here, I know you are busy, and we appreciate your time. The Office of Personnel Management, as you may or may not know, was responsible for a data breach and lost 21.5—I believe is the number give or take—identities were basically stolen, which leads me to question if the U.S. Government can't protect classified employee's data, then how could the private industry possibly do a better job?

Especially if we create a single entity that is collecting all this credit data. So I would ask you Mr. Begor, what all have you learned from the data breach that you have recovered from at Equifax and can you guarantee that this won't happen again?

Mr. BEGOR. Congressman, you raise an excellent question, and I assured in my testimony earlier this morning that from our perspective this is a war that every company, all three of the credit bureaus, every financial institution, every government agency faces and whether it is a fraudster or a nation state that we are attacked. I get alerts now as a part of our new security protocols every time someone tries to penetrate our perimeter. And I get them virtually every day.

So this is a war that is not going to end. What we have learned from it is that we just have to continue investing in it. And we are putting record amounts into our technology and security, as I mentioned in my testimony, a 50 percent increase in our spending. It is an area that we have to all be diligent on.

Another important point that I look at from this perspective is we don't have any trade secrets around security, meaning we want to share everything we are learning with our competitors, which we do. But also with government agencies, we have had our CSO meet with government agencies here in Washington, with our customers and we think sharing is quite important.

The last part of your question is, can I guarantee it will never happen again? I don't think anyone could ever guarantee that. What I can guarantee you is that we are taking every step possible to make sure it doesn't happen again.

Mr. GOODEN. Thank you, and I want to move along to diversity. Some of my colleagues across the aisle mentioned diversity earlier today, one of them was even so brazen as to ask the members of your staff to raise their hands and then he rendered a judgment on his perception of your diversity or lack thereof, based on what I perceive to be his analysis based on their appearance, which I think is appalling. I certainly couldn't have gotten away with that, so I will ask you Mr. Begor, could you make a comment and discuss diversity in your organization and the progress you all have made?

Mr. BEGOR. Congressman, was that to me first?

Mr. GOODEN. Yes, sir.

Mr. BEGOR. Yes, diversity is a real priority for me. As you know, I have only been at Equifax since April but we have taken strong steps.

We have a strong ethnic diversity, 35 percent of our workforce—36 percent actually is ethnic diverse and 44 percent of our organization are women. On my leadership team, I have four female direct reports and five either ethnic or gender diversity and on our board, 30 percent of our board is women.

And just one last point, I talked about the thousand people we have added in the last 12 months or so, as we have grown out our organization, that thousand people is actually more diverse than the average because we are bringing more diverse talent. We are big believers that we should have an organization that looks like the communities that we work in and the customers that we represent.

Mr. GOODEN. I appreciate your testimony, and also I would like to apologize to any staff for my colleague's comments earlier. I appreciate you all being here. I yield back.

Chairwoman WATERS. Thank you. The Member is not here to respond to what you just accused them of, and so I would like to just

have everyone remember that everyone is elected here and they have a right to their opinions and their right to use their time as they see fit, and so in the future, it would be good if you could direct your comments to the Member so the Member can respond to you.

Mr. DUFFY. And if I could, Madam Chairwoman, Mr. Gooden asked his questions to the panel—it would help to ask—

Chairwoman WATERS. Excuse me, Mr. Duffy, I have not recognized you for any time. The gentlewoman from California, Ms. Porter, is recognized for 5 minutes.

Ms. PORTER. Hello, thank you all for being here, I would like to start with Mr. Begor, and my question for you is whether you would be willing to share today your Social Security number, your birth date, and your address at this public hearing?

Mr. BEGOR. I would be a bit uncomfortable doing that, Congresswoman, if you would so oblige me, I would prefer not to.

Ms. PORTER. Okay, could I ask you why you are unwilling?

Mr. BEGOR. Well, it is sensitive information, I think it is sensitive information that I like to protect and I think consumers should protect theirs.

Ms. PORTER. If that sensitive information were provided at this public hearing, what are you concerned could happen?

Mr. BEGOR. I think like every American, Congresswoman, I would be concerned about identity theft. I am actually a victim of identity theft. It happened 3 times in the last 10 years to me, twice now with my tax returns and once, you know, as a consumer of someone opening up fraudulent credit accounts in my name. Somehow they got my Social Security number, my date of birth, and my address and then changed the address and opened up the account. So I think like all Americans, we are concerned about that.

Ms. PORTER. So my question then is, if you agree that exposing this kind of information, information like that, that you have your credit reports creates harm, therefore you are willing to share it, why are your lawyers arguing in Federal court that there was no injury and no harm created by your data breach?

Mr. BEGOR. Congresswoman, it is really hard for me to comment on what our lawyers are doing—

Ms. PORTER. Also respectfully, excuse me, but you do employ those lawyers, and they do operate at your direction or your counsel and they are making these arguments in court arguing on the record—I have the minutes here from the court case—that there was no—that this case should be dismissed because there is no injury and no harm created by the disclosure of people's personal credit information.

I understand you as I would, to believe that that information—that the exposure of that information—I asked if you would give it to the committee and you understandably said no, would in fact, create a harm. So I guess I would ask you to please look carefully at what your lawyers are doing and the arguments that they are making because I feel they are inconsistent with some of the helpful testimony that you have provided today.

And my second question is, the breach occurred in September 2017, is my understanding, and is it correct that in April of 2017, a cyber risk analysis firm and science rated your breach risk likeli-

hood at 50 percent over the upcoming year? So there was a firm that rates the likelihood of breaches and yours was rated at 50 percent. Are you aware of that fact?

Mr. BEGOR. I am not familiar with the fact you cited, Congresswoman.

Ms. PORTER. Do you know what your current breach risk rating is?

Mr. BEGOR. I don't have it in front of me, no.

Ms. PORTER. Could you find someone to follow up and provide that information?

Mr. BEGOR. I would be happy to, Congresswoman.

Ms. PORTER. Okay. My next question is you—I know that you have spent considerable resources on improving your cyber security. I wanted to move to Mr. Boundy and Mr. Peck and ask if they could share what kind of investment—dollars and cents please, if you could—you are making or as a percentage of your revenue. Whatever's easiest for you—within the last year? How much of your resources are you devoting to the issue of cybersecurity?

Mr. PECK. We spend about a half-a-billion dollars a year on our cyber security and IT systems.

Mr. BOUNDY. We spend just over a billion dollars a year on information security and technology in our organization.

Ms. PORTER. Wonderful. And then my last of the remainder my time, I just wanted to say, Mr. Begor, I wanted to compliment you, because when you began to release your Lock and Alert system, one of the things that you did is you removed the mandatory arbitration provision that you have in your general terms of service that applies when you deal with businesses, you removed that lock and alert terms of service, and I appreciate you recognizing the mandatory arbitration in that kind of product would be inappropriate. So thank you for doing that.

My last question to the panel is—this may end being a comment given the lack of time. But we see Visa policing merchants if merchants have a lot of fraud and a lot of chargebacks, they keep track of that ratio. And if you are a merchant who is routinely having fraud occur, then what they do is they don't let you take Visa cards, you are not allowed to process Visa cards.

Could you think about applying a similar framework to hold your furnishers accountable? Thank you, and I yield back the remainder of my time.

Chairwoman WATERS. The gentleman from Virginia, Mr. Riggleman, is recognized for 5 minutes.

Mr. RIGGLEMAN. Thank you, Madam Chairwoman, and thank you gentlemen for being here today and thank you for your staff for being here today too. Some of my questions might be a little different, I have a different background. I think that a lot of people here based on the fact that in my 26 years of combined DOD service and being a CEO, I have been able to weatherize data and protect data, so bear with me on some of these questions and I promise I am going somewhere with this.

I am going to start with Mr. Begor. So as you know, as was well documented in 2017, Equifax was a victim of the largest cyber attack in history. You inherited the situation and have already acknowledged today that as CEO, you are ultimately responsible for

the organization. Can I get your commitment today that you and Equifax will continue working with consumers to ensure damage from that breach is mitigated to the fullest extent?

Mr. BEGOR. We are doing that as we speak, Congressman.

Mr. RIGGLEMAN. Right, and there have been some questions from my colleagues that I found interesting, because I do promise everybody here, if I got your Social Security number, date of birth, place of birth and your address, I got you and I think that is one of the things as we go forward here, these questions actually are going to have a point, and a reason as to why some of the other people aren't here, that I would love to talk to in the future.

So right now on the panel today, we have witnesses from Equifax, TransUnion, and Experian, and I have a question for you and it is sort of broad. But if we had a panel of every CEO in the country today, if we asked each of the CEOs what is their biggest fear, what is their biggest concern for the organization, what do you think the answer would be? Any one of you can go first.

Mr. PECK. Cyber breach.

Mr. RIGGLEMAN. You know that, right. It really is. Even having a DOD company on the side that I had, our biggest issue was actually cyber breach based on technologies that we have, but also based on the people with the type of information we have for HR resources and things of that nature. So we are definitely in agreement on that. And I would say, given your response as an increase in frequency and scale of data breaches, I believe this Congress and the committee should work through and to address. The reason that I am so interested in this is because this is not to be the last cyber attack on any critical infrastructure, and I don't know what the definitions are, but I almost think that credit reporting agencies are critical infrastructure based on the data that you hold.

So as I listen to colleagues on both sides of this aisle about FCRA, the proposals before us today could be considered more than a comprehensive reform to the system. So as I am going back and forth, even though I am so—I would say directed on protecting data, what I also did on weaponizing data was looking at cascading effects with the law of unintended consequences.

Let me give you an example as we go forward. We had somebody here talking about Social Security numbers and I believe the Chair was talking about Social Security numbers and credit, or credit scores as they relate to clearances, specifically military clearances. I just have this to say about that: they are exactly; right credit scores do affect clearances. Mine was checked in a background check every year and I was polygraphed on it.

But I would say there is an opposite thing here, and I would humbly submit that the more data that you have actually protects those in the military by ensuring that you don't have people to credit risk because of the people that scare me half to death when I am actually serving beside them.

So on that note, based on more data, I would think the more data that you have, the more that you can involve, and I would love to talk to guys about graph databases in the future between relational and graph; I think that is why we need you to protect this data, because it is so much more than just having the data and credit scores, it is everybody's personal information that I can at-

tack at will and I can. So you know as we go forward, I have something here that I just want to point out then I have a question then I want to go in a little bit more.

All this stuff here is technical and I am not going to go into that because I get a little excited and I nerd out on this so I do apologize to everybody here, because this is what I have done for so long, but Richard Cordray, I think he was the former CFPB Director under President Obama said that without credit reporting and credit scoring it would be harder for financial service providers to assess and manage credit risk and the supply of credit would be more expensive, more erratic, and more constrained.

In about, well I am just going to say for me, when I am looking at this right now, we do have the most robust system and since I took way too much of my time getting excited about this, I have one more question of why I was asking you those questions and I would actually ask the committee and everybody here is why don't we have the actual data providers here, because the questions I want to ask are how that data is actually transmitted, and how you all coordinate with those data providers. Is it encrypted in rest? Is it encrypted in transit?

Do you guys have a standardized methodology for actually protecting that data and identifying breaches because some of the questions we got here I wonder if it is proprietary because, sir, Mr. Begor, you said that you guys were sharing or there's an ability to share data and I would love to know in the last 15 seconds if you have a rolled up infrastructure that is proprietary or are you guys sharing actually off-the-shelf software for fast-time breach identification?

Mr. BEGOR. Congressman, as you might imagine it is a combination of both. There are some fantastic technologies, cutting edge technology out there that we are using. We are also augmenting it ourselves and we are sharing everything we are doing with our customers, our competitors, and government agencies so they can learn from it. We think this is a war that we all face and it is not going to end.

Mr. RIGGLEMAN. Next time, I would love to talk to the data providers with you all specifically to know what kind of security—

Chairwoman WATERS. The gentleman's time has—

Mr. RIGGLEMAN. Thank you, Madam Chairwoman.

Chairwoman WATERS. The gentleman from New Jersey, Mr. Gottheimer, is recognized for 5 minutes.

Mr. GOTTHEIMER. Thank you, Madam Chairwoman. Thank you all for coming before the committee today and while I appreciate the steps you all have taken to prevent future data breaches at your companies, I am concerned that there's still room for error and a need for consumer reporting agency reform. The consumer reporting agencies, as you all know, hold an immense amount of personal data as we have talked about today, and it is clear that there must be enhanced oversight with regard to cyber security at consumer reporting agencies and overall.

Beyond cybersecurity, I have heard from many of my constituents—I live in Northern New Jersey—that dealing with your websites can be clunky and confusing and as some have mentioned today and having to create three separate accounts and log into

three separate websites to freeze their credit and handle disputes is slow and cumbersome.

People deserve a faster, more streamlined process. It is why I am working on legislation that will give people the power to easily freeze their credit if they find suspicious activity across the agencies and find and fix mistakes and would give consumers more control of their credit information and also increase cybersecurity at the credit reporting agencies.

My question, if—and I still, as we have talked about, find the manner in which Equifax disclosed the breach absolutely appalling like many have and I am sure everyone in the room, including the three of you agree with me that there are fixes that need to take place. This is not a Democrat or a Republican issue at all, this is 147 million Americans from New Jersey to South Carolina to Southern California were affected. And while there's a lot to be angry about, the amount of time that passed between the discovery of the breach and the public finding out of that breach is the most disgraceful and disserving I think to many of us.

So I would love to hear from each of you and I know you have touched on this a bit, but can you explain to me more the internal guidelines you have put in place, all of you because I know I am sure you have each studied these breaches to properly notify consumers if this happens again and how long will it take next time to notify those consumers and what do we do about this? And I will start with Mr. Begor, if that is okay with you?

Mr. BEGOR. Thank you, Congressman.

Mr. GOTTHEIMER. Thank you, sir.

Mr. BEGOR. It is an excellent question and you know our goal at the time and I can talk more about what our goal is going forward is to notify consumers, government agencies, regulatory agencies, you know when there's an event like this as quickly as we can, but as completely as we can. And as you know, a situation of the magnitude of what happened at Equifax in 2017 is incredibly complex.

It took time to really detail through who was actually impacted, what data was actually accessed so we could—I say we, so the team could have the proper notification. But going forward, our goal is to do it as quickly and as completely as we can.

Mr. GOTTHEIMER. And do you—just a quick question about that—feel that there is a—the lag—I know that you don't always immediately notify. Is it because you are concerned that you get to the bottom of it first and how much time—when should the notification really occur? How do you make that decision?

Mr. BEGOR. It is a great question, Congressman, and it really is situational. You know it is—what we want to do is notify those consumers who are impacted so they know if they were a victim of a breach and it does take time to work through the forensics on what was actually exfiltrated and how did it happen. Our goal is to notify those consumers first and foremost as quickly as possible.

Mr. GOTTHEIMER. Mr. Peck?

Mr. PECK. Thank you for the question. When the Equifax breach happened, we kind of found out about it when everyone else found out about it. Our goal is to get with the right government entity as quickly as possible and we ended up having conversations of—well, I could relate to you not—not here but maybe later—with

some high level folks who were wondering, did you have one too? What is going on? And you must not, because you haven't told us, right? And we said, of course not or we would have told you, because they can help us with understanding what might have happened.

Our goal in notifying consumers is as soon as possible. We have—you have the same issues. You have to find out who was affected, how to notify them, et cetera. So it is as soon as possible.

Mr. GOTTHEIMER. Mr. Boundy?

Mr. BOUNDY. Thank you, Congressman. Yes, I will go the course to notify consumers as soon as it is possible and with a full amount of information.

Mr. GOTTHEIMER. And the soon as possible question is—but obviously that is if you are a consumer you feel like you should know right away because every day that goes by is possibly a breach and someone is misusing your credit, right, for nefarious purposes. So I think that is always the challenge we all have is what should that time be, how long, and what do we do about it?

Mr. BOUNDY. I think that is right and I think it is absolutely right that a consumer should be expected to be notified as soon as it is practical and possible.

Mr. GOTTHEIMER. Okay, thank you all. I yield. Thank you.

Mr. SHERMAN. [presiding]. I now recognize the gentleman from Ohio, Mr. Gonzalez, for 5 minutes.

Mr. GONZALEZ OF OHIO. Thank you, Mr. Chairman. I really appreciate everybody being here today. I don't envy the situation that unfolded at Equifax. It was terrible for the American people to have that level of a breach but obviously the credit reporting agencies are critically important to our society. I think we talk a lot about income and equality. I think one thing we don't talk enough about is wealth and equality and the effects that having—or not even having any access to credit have on an individual's ability to build wealth for their families.

I want to go through a quick line of questioning. So if I could summarize sort of the testimony today and the answers from the three gentlemen, the argument that I am hearing a lot of is there are actually more than three of us. I think a lot of us are saying, hey this is an oligopoly, and there are actually more than three of us and we do, in fact, compete aggressively. Would that be a fair characterization?

Mr. BEGOR. I would say it is more than fair, yes.

Mr. PECK. Yes.

Mr. GONZALEZ OF OHIO. Okay, so quickly, in the last fiscal year, could you each say, and you are all public companies; this isn't proprietary, how much revenue you made as a company? Last Fiscal Year?

Mr. BEGOR. In global revenue?

Mr. GONZALEZ OF OHIO. United States.

Mr. BEGOR. United States is $2.3 billion.

Mr. PECK. Our global number is $2.3 billion. Let me get back to you on just—we have a combination of businesses in the U.S. that I would have to add up.

Mr. BOUNDY. Congressman, our global revenue is about $4.8 billion.

Mr. GONZALEZ OF OHIO. Okay. So in the—there are more than three of us line of questioning—are there any other domestic competitors that compete anywhere near that scale from a revenue standpoint? Near let us say 50 percent, that come even half as close as you do?

Mr. PECK. Congressman, I would say there are people in the information business that approach this size of the business, certainly FICO has a very large business and they are playing right in the middle of everything we do.

Mr. GONZALEZ OF OHIO. Okay, so maybe FICO. So I will basically take that as it is you guys and FICO are in there. So I will kind of check that as an oligopoly by most definitions. And then—we do compete aggressively. Mr. Begor, in your testimony when you talked about the breach, you said that you were funneling customers to Experian as a result of that breach, is that roughly what you were saying?

Mr. BEGOR. Congressman, I don't recall using the term, "funneling." For the first year after the data security breach we provided a credit monitoring service for free, for all Americans including those who were impacted. After the conclusion of that year we made a decision to voluntarily extend it for another year, and we contracted with Experian to provide that second year of service.

Mr. GONZALEZ OF OHIO. So Experian provided the service—your competitor provided the service?

Mr. BEGOR. Correct—at our expense.

Mr. GONZALEZ OF OHIO. Okay. I come from a variety of backgrounds—professional football is one of them. I know a little bit about competition, and I would suggest that that is not competition in the way that we typically describe it.

And so to me I think it is fairly obvious that what this industry needs is a lot of reform, and reform that would inspire more competition—real competition and not the kind where you are scratching each other's back. And, that way I think we can extend credit to more people.

So back to the original thing I said on wealth inequality and the ability to extend credit to different communities, in your written testimony, Mr. Begor, you talk about NeuroDecision technology as a machine learning technology that you are using to expand credit. Can you talk a little bit—and you can take the remainder of my time—about the success of that program, and how you see machine learning playing in to the idea of expanding credit to more families?

Mr. BEGOR. Thank you, Congressman. You know, we are big believers in two things—one is that more data is going to be good for every American, so that is point number one.

Point number two is that technology using technology to access that data to decision it, to create algorithms is also going to be better for Americans and for the financial services industry and we have invested heavily in our NeuroDecisioning technology—it is a patented technology that we got a patent on earlier this year.

And it is one that allows a financial services company to really use that to go through various databases—ours, theirs and third-party databases in order to make decisioning, to really help extend credit to more people.

Mr. GONZALEZ OF OHIO. Thank you, and I yield back.

Chairwoman WATERS. The gentleman from Minnesota, Mr. Phillips, is recognized for 5 minutes.

Mr. PHILLIPS. Thank you, Madam Chairwoman, and thank you to each of our witnesses. You have each spoken about commitments to becoming more consumer-friendly which is of course, why we are all here. So to that end, I took the time to download apps. I looked for first, Equifax's, and strangely enough, Experian's app came up first for me.

So I downloaded it, and it was very easy. I must commend you and I appreciate that. Simple information, it was done in a minute. I identified my credit score, accounts that have been opened, accounts that have been closed—my debt capacity. But then I found that dreaded red arrow that we all know, and it says number of your—you have at least one account with a missed payment or derogatory indicator.

But I couldn't find a way to identify what that was, and my first question to each of you is upon notification that you have something that has degraded your credit score, how does a consumer like me actually identify what that is? What is the easiest, fastest, most expedient way to do so? Starting with you, Mr. Boundy?

Mr. BOUNDY. Thank you for the question. I think I am not familiar exactly with you would do it in the detail on our app in terms of going past the red arrow, but—

Mr. PHILLIPS. There is nowhere—yes, there is nowhere to go past the red arrow. Lots of information—specific account information, but when you see a red arrow that indicates you have something that degraded your score, there's nowhere else to go.

Mr. BOUNDY. I normally would advise consumers at that stage to look at their individual report and on there you can see the specifics of any of the negatives impacting your score.

Mr. PHILLIPS. Okay, just not on—so if you order the actual paper report you see it, but not on the app? Because that is what I did, I looked at my credit rating—comprehensive credit rating.

Mr. BOUNDY. I would need to double check, Congressman, on that.

Mr. PHILLIPS. Mr. Peck, for your organization, how does one identify specifics that degrade your credit score?

Mr. PECK. Sir, there's an application we have built called Credit View, which once you get in to it, will give you suggestions on what you can do differently to change your credit score, and—

Mr. PHILLIPS. Is there a cost associated with that?

Mr. PECK. If you go to Credit Karma you can get that for free, and many other banks are also offering that for free.

Mr. PHILLIPS. For your product, does one have to pay to identify it?

Mr. PECK. You know what, I don't believe it is in our True Identity product.

Mr. PHILLIPS. Okay.

Mr. PECK. I don't believe it is there.

Mr. PHILLIPS. So I have to go to a third party to identify what that arrow or degradation is?

Mr. PECK. Yes, you do.

Mr. PHILLIPS. Okay. Mr. Begor?

Mr. BEGOR. Congressman, as you probably know, most consumers in the process of applying for new financial transactions, if they are denied credit they will get a credit report for free and that is generally when they will engage with us around something on their credit report that is impacting their credit score.

And they will call us in the call center, or they will process if there's an error that they think is incorrect on a payment that was applied by a financial institution they will process that dispute either online to us, or through our call centers. And that is generally how a consumer will engage with us around a error on their credit report.

Mr. PHILLIPS. Okay so, going back to you, Mr. Boundy—I see my red arrow which indicates there's something there. Is there anything that would preclude this app, or website from simply linking to what that red arrow is? Considering all the wealth of information that you do so quickly and thoughtfully present to me?

You understand what I am trying to get to—what troubles me, and I have tried this in the past, and I hear from constituents all the time what troubles them so is they don't have a perfect credit score they cannot identify why. And in my estimation neither of your organizations are making it terribly easy to identify that. Is there a better way to do so?

Mr. BOUNDY. Congressman, thank you for highlighting this. I think it is something we will have to look into in more detail because I think what you are saying is correct; it should be easy for them to access and be able to see that.

Mr. PHILLIPS. Okay. And if the answer is that you have to purchase that information, the notion of buying is something that troubles me, and of course a lot of consumers. I yield back.

Chairwoman WATERS. The gentleman from Wisconsin, Mr. Duffy is recognized for 5 minutes.

Mr. DUFFY. Thank you, Madam Chairwoman. Welcome everybody, good afternoon. Do the three of you all know each other from before today's hearing? You guys have met before?

Mr. PECK. By phone with—

Mr. DUFFY. First time in person then, you are all meeting?

Mr. PECK. This is the first time. Yes.

Mr. BEGOR. Not for me, Mr. Chairman. We met by phone and Mr. Boundy and I met face to face.

Mr. DUFFY. Okay. Great. So this—since you are here together because it is wonderful that we can lock our credit, it is a great service that you provide. But it would be even a better service if the three of you could collaborate together and just give us one app that I can lock all three of you on.

And if you guys could talk about that amongst yourselves at a coffee break that would be great because I think that would really help the American people very quickly lock and unlock and I know you guys have the technology and the friendship.

You have enjoyed the hearing today, I know. So I would love it if you would work on that. Will you work on that? I will try to get an answer?

Mr. BEGOR. Yes, Congressman.

Mr. PECK. Yes, we will work on that.

Mr. BOUNDY. Yes.

Mr. DUFFY. Great. Okay. Let's talk about the lawsuit, Mr. Begor. You are being sued because of the breach, is that right?

Mr. BEGOR. That is correct. Yes, Congressman.

Mr. DUFFY. And is it fair to say that to your knowledge monitoring the dark web and you haven't seen any of this information that was—that was breached being used against American citizens. Is that fair to say?

Mr. BEGOR. To date, Congressman, since the breach, all of our forensic analysis is done internally. We see no evidence of that.

Mr. DUFFY. And so thus far no American has been damaged from the breach, is that correct?

Mr. BEGOR. Is that a question, Congressman?

Mr. DUFFY. Yes.

Mr. BEGOR. You know I think there's no question that consumers have been concerned with a data breach of the size of Equifax, which is why we are so sensitive about providing the—

Mr. DUFFY. No, I know you are but—

Mr. BEGOR. Data protection.

Mr. DUFFY. But no one is having their identity stolen because of your breach as of yet?

Mr. BEGOR. Not that we have been able to identify, Congressman.

Mr. DUFFY. But you are being sued?

Mr. BEGOR. Correct.

Mr. DUFFY. And the allegation is that you are defending your company and saying there hasn't been damage as of yet and we have a class action lawsuit where trial lawyers will probably take 35 or 40 percent of the cut and no one has been damaged?

I just want to make that point. I think it is a fair argument to make. And if there was damage you will probably be held accountable. But at this point there has been none. Was it a nation state that hacked you?

Mr. BEGOR. We don't know who the criminal or nation state was that did this attack on a U.S. company on U.S. consumers. We don't know who it is, Congressman.

Mr. DUFFY. But you think it is a nation state?

Mr. BEGOR. I don't have a real opinion on it. We are working closely with the authorities. That started right after the data security breach and we know they are working hard to figure out who these criminals were, who the nation state was.

Mr. DUFFY. I would note that there are several reports in the media that it was China that did this to you and I am sure you probably don't want to comment on that. But again, I think it reiterates and underscores the point that China has not been an ally, has not been a friend, and we don't know how they are going to use this information on us. You provided free credit monitoring, is that right?

Mr. BEGOR. That is correct, Congressman, not only to those who were impacted but to all Americans.

Mr. DUFFY. To the whole country. Right? To everybody. And you are required to provide one year by law, is that correct?

Mr. BEGOR. Each law varies by State. As you may know—

Mr. DUFFY. S.2155, did that require you to provide monitoring?

Mr. BEGOR. I don't believe, Congressman, S.2155 included—

Mr. DUFFY. What did S.2155 require you to do?

Mr. BEGOR. That is the free freeze bill. It allows consumers to do a free freeze at no charge with the credit bureaus.

Mr. DUFFY. I will just note that most of my friends across the aisle voted against that, by the way. Just to note for the group. I only have 1 minute, 20 seconds left. The three of you collect data and try to provide useful information to companies that want to extend credit to Americans, right? And your business model is having the best and most accurate data possible, right? Is that fair?

Mr. BEGOR. Correct.

Mr. DUFFY. Are you trying to screw the American people? Are you trying put bad information inside credit reports so people can't get credit?

Mr. BEGOR. No, of course not.

Mr. DUFFY. Are you trying to use data to make poor people poorer, to keep them from getting homes, or are you trying to say I am going to get the best data so the best credit decisions can be made by our customers?

Mr. BEGOR. That is correct. Yes.

Mr. DUFFY. And if you don't have good data, frankly, you are not very good companies are you? And you might lose clients, you might lose revenue. Fair enough?

Mr. BEGOR. That is correct.

Mr. DUFFY. And if someone gives you bad data, you are just the collector of the data; why would you be liable if someone provides you bad information. Wouldn't it be fair to say that if a bank gave me bad information, that would be the bank's fault, not necessarily mine? You are just the collector or the aggregator of the data. Is that fair to say?

Mr. BEGOR. I think, Congressman, as I testified earlier, we also have an obligation to audit the data that comes in to ensure that it is accurate, that is coming with furnishers, and obviously provide the consumers real access when they have an error that they identify.

Chairwoman WATERS. The gentleman's time has expired. The gentlewoman from Iowa, Ms. Axne, is recognized for 5 minutes.

Mrs. AXNE. Thank you, Madam Chairwoman, and thank you to the panel for being here today. I appreciate your time to discuss this important issue. My question is to you, Mr. Peck. Earlier today you said that no security breach had happened within your organization because you are consistently updating your system.

Yet, just this past November in Hong Kong, which was just a few months ago, you were forced by the Hong Kong banking authority to suspend online services over a personal data security flaws.

This was identified after a local newspaper easily accessed personal data of the city's leader and finance minister. You said you haven't had a security breach because you are consistently upgrading the system. My question is how can you say that this wasn't a security breach?

Mr. PECK. Yes. Thank you for the question, Congresswoman. This was, in our view, an attempt of fraud where the credentials of these three people were stolen and they were able to access the system and get the data only for them and the choice to shut down

the system was ours because we are going to upgrade the authentication more in line with what we are doing in the United States.

Mrs. AXNE. I appreciate that. So if I am hearing you correctly, they were able to access the data of not just the city leader and finance minister but others as well?

Mr. PECK. No.

Mrs. AXNE. But the reporter actually got in and saw their personal data.

Mr. PECK. He stole their identities and after many, many repeated attempts was able to see the individual data of just one person each.

Mrs. AXNE. So you wouldn't consider that a security breach, entering your system and being able to access information about an individual's personal information and financial information. You don't consider that a security breach?

Mr. PECK. I would not consider that a material security breach.

Mrs. AXNE. Okay, I would consider that a security breach. As an owner of a digital design firm as well, my question would also be, why weren't you using two factor authentication in Hong Kong?

Mr. PECK. We weren't able to put two factor authentication in Hong Kong. We are doing that right now, Congresswoman.

Mrs. AXNE. Well, I am glad to see that you are doing that. You know as somebody who used two factor authentication just to run for my office here and you know were able to implement that very readily, I would assume that with the size of your organization and that your security within your IT would be up to date to make sure that those things happen. I appreciate that you are trying to move forward with it, but I would, absolutely, consider that you had a security breach and that you weren't well prepared for that.

My question, then, would be to all of you here, do you think it is realistic to think that there won't be any future data breaches? I know you are investing heavily, Mr. Begor. Mr. Peck, you said you haven't had any material damages. Mr. Boundy, it sounds like you said you are also making some investments in things like your Boost program. Let's talk about what you think is going to happen in the future. Are there going to be more data security breaches?

Mr. BEGOR. Congresswoman, as I testified a couple of times this morning, this is a war. It is a war every company faces. It is a war every government agency faces, whether you are a credit bureau, a financial institution, or an industrial company. There are criminals and nation states that are attacking us.

And as I also said, I get alerts, virtually, multiple times per week, of our perimeter being attacked, and us preventing those attacks. We believe we have to continue to invest, number one, in this technology to protect ourselves.

And second, is the sharing of the ideas around how to protect yourself we think is quite important. And I have brought—I came into the company with the approach that there are no trade secrets around data security. So we are sharing with our customers, with our competitors, and everyone.

Mrs. AXNE. So would you say we could look forward to more security breaches, or no?

Mr. BEGOR. Congresswoman, I was asked a question earlier about whether—I don't know what the exact wording was, but could I guarantee it won't happen again. Of course not.

Mrs. AXNE. Okay. Mr. Peck?

Mr. PECK. I think we can expect that there's going to be a constant attack on all of our systems.

Mrs. AXNE. Mr. Boundy?

Mr. BOUNDY. Congresswoman, I think there are constant attacks on all of our systems.

Mrs. AXNE. So with cybersecurity and attacks on our systems, what percentage of your revenue, and what percentage of your profitability are you putting into cybersecurity and making sure that you protect these systems? Any one of you can answer that.

Mr. PECK. As we have discussed before, for TransUnion we put about $500 million into our overall IT systems.

Mrs. AXNE. And can you tell me what percent of your operating expenses that is? What percent of your revenue that is, profitability?

Mr. PECK. It would be, roughly, 30 percent—well, not 30 percent, 20-some percent of our revenue.

Mrs. AXNE. Twenty-some percent of your revenue, and what percent of your profitability?

Mr. PECK. We make about $297 million a year in profit.

Chairwoman WATERS. The gentlelady's time has expired.

Mrs. AXNE. Thank you.

Chairwoman WATERS. The gentleman from Kentucky, Mr. Barr, is recognized for 5 minutes.

Mr. BARR. Thank you, Madam Chairwoman. And thank you for holding this hearing. Gentlemen, thank you for your testimony today. Let me start with Mr. Boundy and work our way down the panel. Briefly, each of you, describe a world in which credit reporting agencies do not exist.

Mr. BOUNDY. Thank you, Congressman. I think if I was to describe that, I would describe a world in which credit was very expensive and difficult for consumers to access.

Mr. BARR. Mr. Peck?

Mr. PECK. Thank you, Congressman. I would describe a world where there wouldn't be any competition among the banks, and the biggest banks would maintain all of the information on the consumers that they were able to take in. And they would be able to market to them exclusively. And so, there wouldn't be as many competitive products.

Mr. BARR. Mr. Begor, as you answer the question, could you also, kind of, add a little bit to what it would mean for the consumer?

Mr. BEGOR. Yes. From my perspective, Congressman, I think it is a great question because I think we play a critical role in the U.S. financial ecosystem, and as I travel the world, our credit reporting system and infrastructure is the envy of most markets around the world. The lack of a system like we have today would increase costs for everyone, and constrain, in my view, credit for everyone.

Mr. BARR. Well, I appreciate the answers because, obviously, this industry serves a vital role, in terms of providing the infrastructure that is the predicate for the provision of affordable, accessible fi-

nancing for consumers throughout this economy. Having said that, we have identified some issues and some problems, and I appreciate some of the measures that your industry is taking to correct some of those issues.

Let me ask you about the—kind of, follow-up with Mr. Kustoff's line of questioning, particularly with regard to credit invisibles and alternative data as a potential solution for credit invisibles.

What are the impediments, if any, to always taking into account cell phone bills, utility bills, rental payments, what are the existing impediments that would inhibit you all from expanding on your programs that are taking alternative data on a voluntary basis, and making that data kind of a standard part of your assessment because as you all have testified, the more data the better, in terms of accuracy. And any one of you can answer that question.

Mr. BOUNDY. Congressman, I think with our Experian Boost program that I have talked about today, we are able to work with consumers to allow them to contribute that information directly onto their credit file, whether it be cell phone or utility payments, and see an immediate benefit to their credit score. And I think that is really important.

Mr. BARR. But that is voluntary, correct?

Mr. BOUNDY. That is right. So I think the impediment, as you would describe them, would be our ability to get the completeness of the data across a large number of consumers.

Mr. BARR. Right. Why wouldn't your firms do that as a matter of course—try to obtain the information more frequently?

Mr. BOUNDY. We are constantly working in industry to find appropriate sources of data to add and make sure the consumers are able to get the best access to credit. But it is voluntary for organizations to provide that information to us.

Mr. BARR. Any other feedback on that?

Mr. BEGOR. No. I would agree with Mr. Boundy that, you know, our focus—and I am sure it is for TransUnion also, is to continue to look for more data sources because we believe more data is going to help more consumers, particularly those who are less advantaged.

Mr. BARR. Some of the concerns, what we have heard is—on medical bills, especially unforeseen medical bills, as not particularly predictive, or of future creditworthiness. Has your industry taken a look at that, in terms of, maybe, a catastrophic healthcare situation that results in non-payment that blemishes a credit history, but that wouldn't normally be a solid indicator of future creditworthiness? Has the industry taken a look at that issue?

Mr. PECK. Yes, Congressman, good question. I don't have the exact data. But one of the previous agreements we have made is to take off credit that is under a certain age. Take off—not credit, but missed payments on medical, and/or if the insurance company was supposed to pay for it and just hadn't paid for it, it doesn't go on a credit report. And we would certainly be willing to look into other avenues to reduce those kinds of negative information.

Mr. BARR. Now, final question. In the world of modern technology and diverse consumers coming from different financial backgrounds, it is our understanding that the credit bureaus only recognize five basic dispute types. Can you verify this? And would it be

better if the industry would, with more particularity, categorize disputes with greater detail than just five large categories? Would that assist you in your assessments, any one of you, Mr. Begor?

Mr. BEGOR. Congressman, I would have to look into that and get back to you. I am not sure—

Mr. BARR. Anyone? Mr. Begor?

Mr. BEGOR. Congressman, I would have to look into that and get back to you. I am not sure about the right answer on that.

Chairwoman WATERS. The gentleman's time has expired.

Mr. BARR. Thank you.

Chairwoman WATERS. At the request of our witnesses, the committee will stand in recess for 10 minutes.

[recess]

Chairwoman WATERS. The committee will come to order. The gentlewoman from North Carolina, Ms. Adams, is recognized for 5 minutes.

Ms. ADAMS. Thank you, Madam Chairwoman, and thank you for holding this important hearing today. I am just going to go straight to my questions. I have been back and forth between committees. Mr. Begor, is Equifax still running the ACI Assist? Does it also use any legacy systems or any custom built systems over 10 years old?

Mr. BEGOR. I don't know the answer to the question on 10 years old, Congresswoman. I know we have some technology that is in that range that is quite old and that is part of our $1.25 billion investment that we are making in 2018, 2019, and 2020 to replace that legacy infrastructure with a state of the art technology. Some of that was completed last year. It is completing as we speak, as we go through 2019 and 2020.

Ms. ADAMS. Thank you. Have you taken any steps to strengthen your internal protocols and overall cyber security?

Mr. BEGOR. Congresswoman, we have taken many steps to increase our overall protocols. We have a totally new security organization. As I mentioned earlier in my testimony, the Chief Security Officer (CSO), reports directly to me and to the board which is quite different. We also installed an element of our bonus system. The top 3,000 employees in Equifax receive a bonus and 25 percent of that bonus is tied to our security improvements. It is quite unique in corporate America and it is only punitive, meaning it can only go down in your bonus if you don't meet our goals in improving our security.

Ms. ADAMS. Thank you. What can CRAs do better to facilitate reduction of disputes and improve handling of disputes caused by debt collectors, and how often do you conduct an independent review of the evidence?

Mr. PECK. So I want to make sure I got the question, Congresswoman, what could we do better to reduce disputes—

Ms. ADAMS. What can you do better to facilitate reduction of disputes and improve handling of disputes that are caused by debt creditors and how often do you conduct an independent review of the evidence?

Mr. PECK. If there was one thing we could do to help reduce—or maybe two—but one area where we are having a disproportionate amount of disputes is in student loans. The way student loans are reported to us are just—it is incorrect and we can't do

anything about it and I think it has kind of a disproportionately bad impact on the student borrowers. So that would be the one thing I—and we are focusing on it and we are working on it. But we would welcome the help of this committee to do that.

Ms. ADAMS. All right. The other gentlemen?

Mr. BOUNDY. Yes, thank you, Congresswoman. We work all the time to review every individual furnishing and the information they are providing and try and find ways to make sure that the information we are receiving from them is accurate and try and minimize the disputes that way. Also working with consumers to allow them to contribute their own information that they feel is appropriate onto their consumer reports is another important step we are taking.

Ms. ADAMS. One last question: What steps are you taking to mitigate against discrimination and abuse in the reporting of consumer data to your systems? Mr. Begor? Mr. Peck?

Mr. PECK. Could you repeat the question?

Ms. ADAMS. What steps are you taking to mitigate against discrimination and abuse in the reporting of consumer data to your systems?

Mr. PECK. And when you say, "discrimination," you mean?

Ms. ADAMS. Well, some people have been victimized by predatory or discriminatory loans and those kinds of things.

Mr. PECK. Sure, okay, thank you for the question. We do keep track of the way our furnishers are reporting data and if we see a consistent abuse then they are no longer furnishers of our data.

Ms. ADAMS. Mr. Begor?

Mr. BEGOR. The same, Congresswoman. We have an active audit process set with our furnishers.

Ms. ADAMS. Yes, sir?

Mr. BOUNDY. Yes, we are the same for Experian.

Ms. ADAMS. Okay. Does your policy tend to favor consumers who have been victimized or the entity engaged in the harmful practice? Mr. Begor?

Mr. BEGOR. Congresswoman, I would say we are focused on both. We want to be an advocate for the consumer if they have been impacted in some way and then we are very aggressive about auditing the furnishers to make sure their data is accurate.

Ms. ADAMS. Okay, Mr. Peck, quickly?

Mr. PECK. That is correct. We monitor the furnishers and if we see repeated bad behavior, we take action and we just don't take their data any more.

Ms. ADAMS. Thank you, gentlemen. Madam Chairwoman, I yield back.

Chairwoman WATERS. The gentleman from Indiana, Mr. Hollingsworth, is recognized for 5 minutes.

Mr. HOLLINGSWORTH. Good afternoon. I appreciate everybody being here. I wanted to take a step back. There have been a lot of specific examples, a lot of specific questions asked but I am a big believer, coming from the private sector, in just the alignment of incentives, so let's talk about the incentives that have been structured here.

I took a little bit of a break and got the opportunity and looked at the market cap for Experian at $24 billion, Equifax at $13 bil-

lion, and TransUnion at about $12 billion and then I thought, gosh, how much of that is really faith in your ability to deliver a great product with accurate data that provides good predictive power to those lenders, right? So I wondered, and got out my old dusty accounting text book and looked up what a book value was, and then calculated the book value for each of that: for Experian, it is about $2.2 billion; for Equifax, it is about $3 billion; and for TransUnion, it is about $1.8 billion.

So you own some stuff, right, but at the end of the day much of the value in each of your companies is the ability for this product to provide good predictive power for lenders and have accurate data. So I wondered if you might just speak for minute or two, each of you, and say what impact it would have on the $4 billion or $5 billion in revenue, on the $20 billion or $11 billion or $13 billion in market cap if this data was found to be inaccurate or was found to not have good predictive power. Because we in Congress think that we are breaking new ground here, like we are the first people to ever come up with the idea that this data may be inaccurate or it may not provide predictive power.

But people who have tens of billions of dollars at stake in these transactions, whether they are the ones making the loans, whether they are investors providing you capital, they have a lot more at stake in running the analysis to test those things and to see whether there's a great amount of inaccurate data or whether there's a lack of predictive power. So I wondered if we might just talk about what might happen if, gosh, your customers found out that much of this data is inaccurate.

Mr. BEGOR. Do you want me to start, Congressman?

Mr. HOLLINGSWORTH. Yes.

Mr. BEGOR. Yes, I think you are right on the mark. There's no question that the financial institutions look at all three credit bureaus—and I will speak about Equifax—wanting to have a broad array of data and accuracy is fundamental, right? To them. And without that accuracy, if they thought we were inaccurate, they would move their business from Equifax to either Experian or TransUnion or one of the other credit reporting agencies that are a different scale.

Mr. HOLLINGSWORTH. Yes. And I think that is—and you have, to your knowledge, these lenders probably check that. Right? They are spending billions of dollars with you and the other firms every single year to get access to this, and to make sure that they have the opportunity to understand that individual, the best that they can before they make the loan, they are probably checking that after the fact to make sure that it is a wise spending of their money, right?

Mr. BEGOR. That is correct, Congressman, and they check it intensely.

Mr. HOLLINGSWORTH. Yes. More intensely probably than we can in a six-hour hearing of asking questions.

Mr. BEGOR. They have hundreds of people at each institution who are making sure they have the most accurate data so they can make the best decision for that American consumer.

Mr. HOLLINGSWORTH. So your business model demands accuracy. Your business model demands predictive power and you have tens

of billions at stake in making sure that you get to those outcomes for your consumer, for your customers, but also for those individual borrowers?

Mr. BEGOR. Correct.

Mr. HOLLINGSWORTH. Anything you guys want to add as well?

Mr. PECK. I would echo those things, Congressman. I think they value that and our ability to protect the data.

Mr. HOLLINGSWORTH. Right.

Mr. BOUNDY. Congressman, I think it is a great analysis and I absolutely agree.

Mr. HOLLINGSWORTH. Well, great. What I wanted to come back to, and just summarize, and then I will yield back my time is we ask a lot of great questions here, right? And a lot of specific examples are thrown out. They have 100 examples about how there are inaccuracies, you have 100 examples of inaccuracies that were corrected and those individuals went on to get the credit that they deserve.

But I think the points that are being made here is one, you have every incentive to do that on your own. You think about that every day. I am sure you wake up every day saying how can we make this product better for our customers, better for lenders, and so you are trying to root out those inaccuracies as well. You don't need a government regulator to tell you we want this to be the most accurate data because your customers and the lenders demand it and you have tens of billions of dollars at stake.

And I think the second point that you guys have very articulately made over and over again is without this, in the absence of a credit bureau, in the absence of this research that you guys are providing, individual lenders have to do this about individual consumers every single time. The cost of doing that would make the cost of borrowing prohibitive for many borrowers.

This is about enhancing credit availability to more and more Americans, and a correct, robust, and full data set gives you the opportunity to do that. And if we begin to tamper with that data and say we are going to remove the bad things but we are going to keep the good things, then lenders are going to quickly realize that we have skewed the data and they are no longer going to be able to rely on that data in order to get the lowest cost of capital for those individual borrowers.

Instead, everyone's cost of capital goes up. So I appreciate the fact that you are here talking about the business that you do and that you don't just do this out of benevolence but you are doing it because you're incentivized in your very business model to deliver accurate, predictive, powerful results. Thank you for being here today.

Chairwoman WATERS. The gentlewoman from Massachusetts, Ms. Pressley, is recognized for 5 minutes.

Ms. PRESSLEY. Thank you, Madam Chairwoman, and thank you to my fellow committee members for their robust line of questioning. Many of my questions have been asked and answered. I want to thank all of you for being here. And as someone who has a name that is often mispronounced, I did just want to get clarity. Is it "Begor" or "Begor?"

Mr. BEGOR. Sorry. I will answer to just about everything but my mom goes by "Begor."

Ms. PRESSLEY. Okay, "Begor." I want to get it right. All right. So we have spoken a great deal about what we consider to be, based on the security breach, the collateral damage, the lack of trust and sense of security by your customers, by consumers and what we haven't spoken about, when we are thinking about collateral damage and sort of accountability, we know that everyday Americans are punished and suffering in terms of their opportunity for social and economic mobility and bare necessities, often for things outside of their control.

So here we have spoken about the impacts of the shutdown and natural disasters, we have spoken about medical debt. You were talking about data furnishings from those who may have predatory practices such as our for-profit colleges and universities, which I want to pick up on that in a moment. But what is unclear to me is considering the impact of this data breach on 143 million people throughout the country, what was the accountability to your company? Was anyone fired from the board?

Mr. BEGOR. Congresswoman, there was a lot of accountability. The CEO left. As you know, I am new starting in April. We have a new chief security officer, a new technology leader, we have changed out two of our board members since the data security breach, including a woman who was elected on a Friday who's a data scientist, which will be a terrific addition to our board.

And then we are investing incredible amounts inside the company to bring ourselves to industry-leading capabilities around data and security. My testimony this morning talked about the $1.25 billion, which is a 50 percent increase in our technology and security spend that we will be doing in 2018, 2019, and 2020.

Ms. PRESSLEY. Again, I just wanted to make sure that I have that data point correct. It was my understanding from my quick read that there were folks who retired or perhaps were forced to retire but not who were actually let go. And I just want to know if anyone was fired and held accountable for this breach as a way to restore the faith in your consumers and customers.

Mr. BEGOR. Congresswoman, there was a lot of accountability. The entire senior leadership team in 2017 did not receive a bonus. Zero. So that was accountability to that leadership team. As you know, I was not there at the time. I joined in April, 10 months ago. And then the individuals you could describe, you know, retirement or left the company, but they are no longer employed by Equifax.

Ms. PRESSLEY. All right. Well, you know, I do just think ultimately if the goal here is to treat people and customers as consumers and not as products, then we can't in any way be complicit to executives who are turning a profit there unscathed when there are customers who are still struggling to recover from the damage that your company caused. I will move on. I just wanted to pick up on—you said that if you received data, if it is furnished from those that have participated repeatedly in predatory practices that you no longer accept data from them.

Are there any companies that you could use as an example and evidence of that?

Mr. PECK. Congresswoman, I can't name them right now. But I would be happy to come back to you with my staff and let you know the names.

Ms. PRESSLEY. Okay. Specifically, I worry about those who have been victims of the deceptive business practices and predatory marketing of some for-profit colleges and universities really ensnared in a downward spiral of—of defaulted loan, and poor credit, that they are digging out from for decades through no fault of their own because they have been victimized. So at this time, you can't speak to any for-profit college or university that you are no longer accepting data from?

Mr. PECK. No, but I can have my staff reach out to your staff and we will provide that to you.

Ms. PRESSLEY. Okay. And then, what about for those who are the victims of domestic abusers, which impacts their credit? Is there any recourse or anything you do specifically for them, again, outside of their own control, any avenue or recourse for those, no? Okay. Thank you, I yield back.

Chairwoman WATERS. The gentlewoman from New York, Ms. Ocasio-Cortez, is recognized for 5 minutes.

Ms. OCASIO-CORTEZ. Thank you, Madam Chairwoman. And thank you to our three witnesses here today. I know it has been a long day, so I appreciate you all coming. For clarification, there are no other credit bureaus at a similar scale, aside from the three major credit bureaus you three represent, is that correct, Mr. Peck?

Mr. PECK. Yes. That is correct.

Ms. OCASIO-CORTEZ. And all three of your bureaus—Equifax, Experian, and TransUnion—are for-profit corporations, is that correct? Yes. So, virtually, every credit score in America is managed by the three of you in some way—touched or managed by the three of you in some way, shape, or form, Mr. Begor?

Mr. BEGOR. Congresswoman, you used the term, "credit score." There are lots of different organizations that create credit scores, financial institutions do it on their own. We do some. There's a company called FICO that does some. But we are central to that in the data that we house and in creating those scores.

Ms. OCASIO-CORTEZ. So what would you say or how would you characterize the package of data that U.S. bureaus, and the three of you, essentially, have—have the most amount of market share over? How would you characterize that—like, how would you characterize what you have the most market share over?

Mr. BEGOR. I am not sure I understand the question, Congresswoman.

Ms. OCASIO-CORTEZ. So the differentiation—if you could explain to folks, the differentiation between the score and, for example, the reporting that you all provide.

Mr. BEGOR. As the Congresswoman knows, we house the data from furnishers. Financial institutions provide it to us. We all have similar data, but all three bureaus are different in the data that they possess. And then, the data is provided to financial institutions and other organizations for decisioning, generally, around financial products like a mortgage, a loan—

Ms. OCASIO-CORTEZ. Great.

Mr. BEGOR. And, you know, our view is to have accurate and complete data.

Ms. OCASIO-CORTEZ. Great. So as the three of you representing these three bureaus, you are responsible for an enormous amount of consumer data for virtually anyone who has a credit score in the United States?

Mr. BEGOR. Is that for me, Congresswoman?

Ms. OCASIO-CORTEZ. Yes.

Mr. BEGOR. Yes, sorry.

Ms. OCASIO-CORTEZ. Okay.

Mr. BEGOR. Yes, that is correct. You know, we have a real responsibility there. And there are about 250 to 260 million Americans who are in our credit file.

Ms. OCASIO-CORTEZ. Thank you.

Mr. BEGOR. There are about 60 million who are not.

Ms. OCASIO-CORTEZ. Thank you. Okay, so I do have a question here regarding these incentives. You stated earlier that you believe that consumers own their own data. And I agree with that. I thank you for taking that position because I believe that as well. Do consumers or everyday people ever explicitly consent to giving their data to you?

Mr. BEGOR. Is that for me again, Congresswoman?

Ms. OCASIO-CORTEZ. Yes.

Mr. BEGOR. Sorry. There is not a consent by the consumer to give us the data.

Ms. OCASIO-CORTEZ. So consumers own their data, but credit bureaus collect their information without their consent?

Mr. BEGOR. That is correct, Congresswoman. But as we talked about earlier in the testimony, there are a number of tools available to consumers to—

Ms. OCASIO-CORTEZ. To correct it.

Mr. BEGOR. ——really control their data, and freeze it—

Ms. OCASIO-CORTEZ. Right.

Mr. BEGOR. —or lock it.

Ms. OCASIO-CORTEZ. But there is no way that they can prevent you from collecting it. And so, I see here, you know, credit scores are life-altering pieces of information. And monitoring credit is incredibly important. And yes, we have seen here, by reports issued by this committee, that one in five consumers have had an error on their credit report.

There are about 60 members on this committee. That means 12 members here, either currently or in the past, have had an error on their credit report. You know, if parachutes had a one in five error rating, I don't think a lot of people would go skydiving. And now we are talking about people's homes. We are talking about their ability to get a job.

We are talking about people assessing whether they would be a good janitor based on their credit score. Mr. Peck, your largest customers for the bureau are creditors and lenders, is that accurate?

Mr. PECK. Yes, banks.

Ms. OCASIO-CORTEZ. Banks and lenders. So those banks and lenders stand to, generally, profit more from higher interest rates, and those with the marginally lower tax score than someone else. Would that be correct?

Mr. PECK. Congresswoman, I wouldn't necessarily think so. I think they profit most when they are able to put the right products into the people's hands in the right way, and not ignore a whole population.

Ms. OCASIO-CORTEZ. I got you. So when we talk about putting consumers first—and again, I applaud the priority of putting consumers first in this, especially in the amount of breaches. My one question is how are bureaus—in what ways are bureaus—or are bureaus financially incentivized to put the needs of consumers ahead of the needs of creditors, Mr. Begor?

Mr. BEGOR. Congresswoman, as I testified, you know, we believe central to what we do is really protecting consumer data, and allowing consumers access so it is accurate. And we are investing heavily to allow consumers to have easier access to that when they have an issue with their credit file so we can be an advocate for them, and help them get it fixed with the furnisher or financial institution.

Ms. OCASIO-CORTEZ. Thank you.

Chairwoman WATERS. The gentlewoman's time has expired. The gentleman from Guam, Mr. San Nicolas, is recognized for 5 minutes.

Mr. SAN NICOLAS. Thank you, Madam Chairwoman. I would like to thank the panel for joining us today. I am having a lot of nostalgia up here because I used to be in the banking industry. And I remember around 10 years ago, printing out my Equifax reports, and sitting down with my consumer loan applications, and doing my underwriting to figure out whether or not we were going to be giving out the credit.

And, you know, going on this trip down memory lane, I remember that when I looked at credit reports there were a lot of consistencies when it came to what you see there, and what ultimately becomes the creditworthiness of the individual applying. And it is not just what you see, with respect to the consumer. But it is what you see with respect to who is pursuing that consumer.

And I noticed that some of the applicants who are less favorable candidates for credit oftentimes had some of the same companies that were pursuing them for so many years. And as I sat back and I reflected on this, I realized that while we do these credit reports and these credit scores, we are always rating the consumers—we are rating their behavior or rating their choices. And that is fair, I think that is fair. But I think that what we also should be doing since we are aggregating all this data is rating the lenders.

If we are getting all this data together, we can easily aggregate a score on all the lenders and all the banks. And we can aggregate whether or not a particular bank has an egregious number of 30 day, 60 day, or 90 day violators versus one that doesn't.

We can do an aggregation of whether or not a bank has a longer or shorter banking relationship history with the customers that it has, or is the kind that just picks up customers and dumps them very quickly.

We can aggregate the errors, and create a score on lenders and whether or not they are violating a lot of the credit reporting standards with respect to accuracy. And I think that this is something that I am hoping the panel can consider as a public service,

even—aggregating our data not just on the consumers themselves, from the lenders also and coming up with a lender score.

So when I am evaluating a credit card, it is not just whether or not it is cash back, or points, but whether or not this lender actually has a good scoring with respect to—I don't know, the aging of their accounts? Or a good scoring with respect to how they go about handling 30, 60, 90 day violations.

So I was wondering—because my colleagues' line of questioning kind of made it very clear that consumers are not consenting to the aggregation of their data and the algorithms that result in their scoring, would there be anything that would restrict the aggregation of the data, with respect to the lenders and your companies coming up with a lender score that consumers can look to be able to determine whether or not they want to do business with those lenders?

Mr. BEGOR. Do you want me to respond to that one, Congressman?

Mr. SAN NICOLAS. Yes, please.

Mr. BEGOR. Yes, my apologies. I think that is an interesting idea, particularly around the data accuracy—I think as all three of us have testified we have rigorous programs in place to audit the data that is coming in to us, when a furnisher has a history of inaccurate data we take actions, and no longer accept that data. So I think it is an interesting idea to look in to how else we might use that information around the accuracy of data.

Mr. PECK. I would agree with that, in that the CFPB has some jurisdiction, Congressman, over predatory lenders, and we would encourage them to take their role as well.

Mr. BOUNDY. Thank you, Congressman, it is an interesting idea—one we will certainly look in to.

Mr. SAN NICOLAS. Thank you, I think that it could really create some interesting dynamics. Because once the lenders realize that their behavior is going to get scored, that might result in a change of the behavior.

It might result in them being less aggressive in dinging a credit score for a 30-day delinquency, instead making an extra effort to try and work with the customer to get back on track. And those kinds of things would be a win-win for everybody.

We would have less consumers having their credit getting hit, and we would have better customer service for individuals. And we would have a scoring system that works both ways in the industry, not just with respect to finding the customers for the lenders, but also with respect to finding the lenders for the customers. I yield back, Madam Chairwoman. Thank you very much.

Chairwoman WATERS. The gentlewoman from Pennsylvania, Ms. Dean, is recognized for 5 minutes.

Ms. DEAN. Thank you, Madam Chairwoman. I am Madeleine Dean from Pennsylvania and I know there has been a lot of conversation today—in particular about the Equifax data breach of 2017. And while it affected more than 148 million Americans, included among those were 5.4 million Pennsylvanians.

It is an extraordinarily high percentage of Pennsylvanians. It is regarded as one of the largest data breaches in our nation's history, exposing millions of people's personal information. And so you

might understand that I have a feeling that my consumers back home in Montgomery and Berks counties might be surprised by the answers about accountability that my esteemed colleague brought forth.

The people moved on based on retirements that people suffered because they didn't get one year's bonus. When we are talking about massive data breaches, such as the 2017 breach which can have life-long consequences for the consumers.

So I will say to you that just—I throw this out to you to say, and I know you were not there at that time. And your stewardship has been touted as important in bringing to the fore. But I would ask you to rethink that, and rethink accountability. Passing on a year's bonus, I don't think will impress people whose personal data was taken—and could have life-long consequences.

So in a follow-up to what the chairwoman asked a long time ago, which was, according to Consumer Reports, Equifax's free service—monitoring service, trusted ID premiere expired as of just January 31st of this year. I believe your answer was, you don't plan to renew that, is that correct?

Mr. BEGOR. I'm sorry, Congresswoman, we did extend it voluntarily for another year to the impacted consumers.

Ms. DEAN. Okay. And that will be free to the consumers?

Mr. BEGOR. Yes, Congresswoman.

Ms. DEAN. Okay, and beyond that, what is the plan for February of 2020?

Mr. BEGOR. We haven't made a decision on 2020, we will take that into consideration when we get closer to that date.

Ms. DEAN. I appreciate that, and I would urge you to continue that. If the consequences remain for the consumer, then they shouldn't have to pay for protecting their information. Something else I wanted to look at, because it is unclear to me is the notion of credit locking—so if all three of you could help me with this?

I think that each of you offer credit locking services, if you could describe the difference between credit freezing and credit locking? Is it in-house, or is it a third-party? What does it cost the consumers? And is any of that information whether it is credit locked in-house, or in a third-party situation, is it in any way sold, transferred, shared in any way? So that is a layer of questions, I apologize but—

Mr. PECK. Sure, I will start. So at TransUnion we have a credit lock and a credit freeze. And the reason we have both is we were offering a free credit lock before we were required to offer something called a free credit freeze. We already had it built and offered. It is part of our free, True Identity product which also offers credit monitoring, insurance if you lose your identity.

When the freeze requirement happened we just took the same—essentially the same technology and built a free freeze product, and it is—you can get it in the form of an app, or online, or by phone. So they are exactly the same functionality—it is all inside, we don't sell it—do anything with it.

Ms. DEAN. All in-house? No sharing? I don't—beyond selling, is there any sharing of it?

Mr. PECK. No, we don't share it. We don't—like, other people can't get at it and say, oh, I know this person's thing, they just know they can't pull that individual's credit report

Ms. DEAN. And yours is free. Is that true also, Mr. Boundy?

Mr. BOUNDY. Credit Freeze's products are free.

Ms. DEAN. Okay.

Mr. BOUNDY. And once a file is frozen, then the information doesn't leave our organization.

Ms. DEAN. But how about the credit lock?

Mr. BOUNDY. Credit Lock is a product that is basically—it is similar in functionality, but it is included in a subscription product that we have.

Ms. DEAN. And what is the cost?

Mr. BOUNDY. There are a range of different price points, depending on exactly the nature of the bundle that you choose. But the Credit Freeze product that is available to everybody is free.

Ms. DEAN. But Credit Lock is something you also promote and is probably, maybe you believe, more effective, otherwise, why would we have it? What is the cost to an ordinary consumer?

Mr. BOUNDY. It would depend on the particular product. You can get a family plan that would allow a number of people in a family to be included, or you can take an individual subscription for that product.

Ms. DEAN. Is it a monthly fee?

Mr. BOUNDY. It is a monthly subscription. But the Credit Freeze product is free to everybody.

Ms. DEAN. And just give me a range. What is the monthly subscription fee?

Mr. BOUNDY. It might be say $19.99, might be a typical range. But that would include other features as well. It just includes it within that capability.

Ms. DEAN. And it is to protect me, the consumer, against what?

Mr. BOUNDY. Well, included in the product will be things like scanning the dark web to see whether your information is out there and it is for sale. It would be an example of something else that would be included.

Chairwoman WATERS. The gentlewoman's time has expired.

Ms. DEAN. Thank you very much. Thank you, Madam Chairwoman.

Chairwoman WATERS. The gentleman from Illinois, Mr. Casten, is recognized for 5 minutes.

Mr. CASTEN. Thank you, Madam Chairwoman. And thank you all for your patience and time today. My first question is on data breaches and really on national security. We have, as a nation—when I say "we," I am talking about the United States Government—an exceptional intelligence community and security forces that are monitoring a tremendous amount of incoming information from state actors, non-state actors, more often than not, one masquerading as the other.

And we have the ability to monitor. And when those attacks come in on government resources subject to jurisdiction in the situation, we have the ability to pursue either defensive or, in some cases, offensive strategies. As you all know all too well, we increasingly live in a world where the value of data held on private serv-

ers is sometimes more valuable than the information on public servers.

My question for all, and recognizing this is a public hearing, I am not expecting you to be fulsome in this is, you have all talked at length about the defensive measures that you have taken, in response to hacking. Are you taking any active offensive measures? And to the extent you are, are you coordinating with our various national security agencies in the course of doing that?

Mr. BEGOR. Do you want me to start, Congressman?

Mr. CASTEN. Yes. And again, with recognition to be brief, I just would like to understand if—

Mr. BEGOR. Sure. You know, we cooperate with the authorities. And after our data security breach in 2017, we quickly engaged with all the appropriate authorities at the Federal and State level. And we are confident they are working hard to really find out who were the criminals or nation states that committed this crime against Equifax and American consumers.

When you talk about offensive actions, one of the things we do very aggressively is hire third parties to try to penetrate our exterior. I view that as offensive. Another one that—

Mr. CASTEN. I mean, reaching out to the people who are coming in. So in other words, we as a government can take active measures to try to disrupt those foreign networks. There's a concern I have personally of, as people are coming—you—if I were in your shoes—I was a CEO for 16 years—I would be inclined to punch back. But this is—becomes a national issue. So are you reaching out to those networks?

Mr. BEGOR. We are trying to share them with the authorities when we see instances of whomever the criminal is. As I mentioned in my testimony a couple of times this morning, we are also trying to share with each other. We really believe this is something that can't be solved as one company, one government agency.

So we are trying to be very transparent with everything we have learned. This is a war that we all participate in. Every company, all three of us here, government agencies, other companies in the United States, really have to work together to defend ourselves. And that is why we are trying to very transparent about everything we are learning and doing.

Mr. CASTEN. Okay. I wanted—I have one more question, so I want to stay on the time. But just to—in general, I am taking that as not specifically on the active side. And just yes or no from the other two of you.

Mr. PECK. No, we are not taking an offensive position.

Mr. CASTEN. Okay.

Mr. BOUNDY. No.

Mr. CASTEN. Okay. Second question, I mentioned that I am new to this job, as you can tell by how late I am in the questioning. I was a CEO of a couple of energy companies for a long time, and I now find myself in middle management. I have a deep respect for the profit incentive and how it drives you to do good things.

I also have a deep respect, having worked in an industry that is a public utility, that there is always a challenge with aligning the profit incentive with the social incentive.

You all provide a public utility, and I thank you for that. Our credit markets depend on you all doing what you do. You also primarily earn your revenue from lenders rather than consumers.

And I am sure you have thought about this, but to the extent hat your profit incentive is at odds with the social purpose that you need to serve, that creates tension that, at some level, we all have to step in.

So my question for you is, can you discuss where you see that tension and what measures, if any, you can take, independent of regulation, to better align your profit incentive with the incentive facilitate access to credit?

Mr. BEGOR. Congressman, I think I have testified a couple of times this morning that we have a real priority about putting consumers first, giving consumers control over their credit file, either with the freeze in S.2155 or, in our case, a lock and alert product that is free for life to consumers.

And those kinds of investments are investments that we are making because it is the right thing to do. It is something that is right for the consumer, but it is also something our customers want us to do, meaning the financial institutions.

Mr. PECK. And Congressman, I would just add, accuracy is the most important thing that we can do, along with protecting consumers' data. And so, we are completely aligned in that case, and it is the best thing for the consumer. And finally, the idea of financial—

Mr. CASTEN. If I could just clarify, though. Your consumer—there is the consumer—the consumer who deems credit, your customer's primarily the lenders.

Mr. PECK. Well, Congressman, when the consumer has the data accurate about them, it is also best for them because they get into the right products. You couple that with the idea of financial inclusion where we are looking more for—for more different kinds of data that especially serve the underserved communities, which I talked about, rural areas, or high urban areas, I think we are actually all aligned in our objectives.

Mr. BOUNDY. Congressman, I think—

Chairwoman WATERS. The gentleman's time is up.

[laughter]

Mr. CASTEN. Thank you.

Chairwoman WATERS. And you may respond to him in writing. I would suggest that you do that. Thank you very much. We are going to have a second panel, but before I do that, I would like to thank our first panel of witnesses for their testimony today.

After hearing the testimony from the CEOs before us today, I am more concerned than ever about the state of our consumer credit reporting system. I am troubled to the point where I do think that we need to start thinking about how we reimagine it and rebuild it from the ground.

And so, I thank you for being here, I have appreciated the time that you put in today, and we will be introducing legislation, and we will interact with you as we formulate that legislation to see what we can do to protect our consumers more and strengthen the entire system. Thank you very much.

[recess]

Chairwoman WATERS. I would like the second panel to please come forward and take their seats: Ms. Lisa Rice, president and CEO, National Fair Housing Alliance; Ms. Chi Chi Wu, staff attorney, National Consumer Law Center; Ms. Jennifer Brown, associate director for economic policy, UnidosUS; Mr. Edmund Mierzwinski, consumer program director, U.S. Public Interest Research Group; and Mr. Thomas Brown, a partner of the law firm, Paul Hastings.

Each of you have 5 minutes to summarize your testimony. With 1 minute remaining, a yellow light will appear. At that time, I would ask you to wrap up your testimony so we can be respectful of both the witnesses' and the committee members' time. And without objection, your written statements will be made a part of the record.

Ms. Rice, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF LISA RICE, PRESIDENT AND CEO, NATIONAL FAIR HOUSING ALLIANCE (NFHA)

Ms. RICE. Thank you. Chairwoman Waters, and members of the committee. Thank you so much for inviting me to speak about the need to overhaul our credit reporting and scoring systems. The National Fair Housing Alliance has worked to address how the U.S. credit system restricts access to consumers of color since our inception 30 years ago.

Our work with industry partners and our network of over 200 community and State-based organizations gives us unique insights into how credit markets function and impact our underserved consumers.

How our society collects and uses consumer data, as it relates to the provision of financial services, has always been slanted against people of color. Our credit scoring and automated underwriting and pricing systems are fueled by algorithms that rely on data that is infused with, and reflects a discrimination that is replete throughout our financial and housing markets.

While credit repositories capture all types of data from myriad sources, they do not capture information that explains the impact of discrimination and racial inequities. Moreover, repositories adopt policies that favor the provider of the credit data over the consumer, even when the entity has engaged in discrimination or fraud.

Finally, repositories do not collect rental housing payment information that can result in expanded access to quality, sustainable credit for underserved groups. Our country has a dual credit market that stems from historical and current discrimination which taints the data housed in the credit repository systems.

Housing policies established from the inception of this nation were expressly designed to assist whites in gaining land and homeownership rights while simultaneously denying people of color the same opportunities. Federal agencies like: the Home Owners Loan Corporation, which by collecting millions of pieces of data developed an infrastructure for systemizing red lining in our financial markets; and the Federal Housing Administration, which used race-based policies and weaponized data against communities of

color, denying them from obtaining credit and homeownership opportunities while simultaneously generating trillions of dollars in wealth for white Americans.

Federal agencies along with private actors demanded the segregation of residential communities and actively worked to disinvest those areas with higher concentrations of people of color. In my written testimony, there is an illustration of America's separate and unequal credit system. The tan side reflects the non-traditional or sub-prime market where entities like check cashers and pay day lenders operate, when consumers access credit in this space it does not in year to their benefit. Many operators in this space do not report positive payment behavior to the credit repositories, however they do report negative information to the system.

Non-traditional credit providers are less regulated than mainstream credit providers and are more apt to develop products that are not safe or sustainable or are designed to push borrowers into delinquency. Non-traditional creditors are also highly concentrated in communities of colors while there are banks and credit unions located in African-American, Native Indian, and Latinx communities. We continue to see differences in credit scores high to residential segregation. People living in communities of color are more likely to be credit invisible and have lower credit scores.

This is because data is not innocuous. Although discrimination is a common occurrence in the housing sector, there are over 4 million instances of discrimination each year. The bias in our markets is not accounted for in the way credit data is collected or utilized. This means that data is tainted and often manifests harmful outcomes for consumers. When credit repositories gather data, they do not simultaneously ascertain if a consumer has obtained credit from a predatory, discriminatory or abusive debtor for the purposes of ameliorating negative fallout.

I have four suggestions for potential solutions. The first is that credit reporting systems must be revamped to merit consumers and creditors alike, in an equal fashion. The second is that adverse information related to discrimination, fraud, and abuse must be removed from our credit repository system. The third is that rental housing payments should be reflected in the credit repository system. The fourth is that if a provider of data—a lender—does not report positive data into the system, any negative data emanating from that provider must not be captured.

[The prepared statement of Ms. Rice can be found on page 168 of the appendix.]

Chairwoman WATERS. Thank you. Ms. Wu, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF CHI CHI WU, STAFF ATTORNEY, NATIONAL CONSUMER LAW CENTER (NCLC)

Ms. WU. Chairwoman Waters, Ranking Member McHenry, and members of the committee, thank you for inviting me to testify today. I am testifying on behalf of the low income clients of the National Consumer Law Center. So by my estimate, this is the sixth time I have been before Congress talking about abuses by the credit bureaus. Of course, it is an honor each time to be invited, but it is really terrible that I, my predecessors at NCLC, and other con-

sumer advocates such as the fine folks on this panel have had to come back so many times to talk about the same issues.

We have complained many times about mixed files, where the credit bureaus mix up information of two different people. Such as Tammy Brown of North Carolina who was wrongfully tagged with the bankruptcy of another Tammy Brown from Indiana. Mixed files are something that Senator William Proxmire considered the father of the Fair Credit Reporting Act, complained about in 1968. It often occurs because credit bureaus don't match the information using the full Social Security number of consumers but rely only on seven out of the nine digits resulting in mismatches.

Another problem we've complained about before is what affected Peggy B. of Missouri, whom the credit bureau tagged as deceased. Imagine being denied credit and sent condolence letters about your own death when you are very much alive. These errors affect millions of consumers. According to the Federal Trade Commission, one in five consumers has a verified error in their credit report and 5 percent have errors serious enough to be denied or pay more for credit. Five percent is unacceptable. It means 10 million Americans have seriously damaging errors in their credit reports and what is worse is what happens when consumers try to fix these errors.

They run into the Kafkaesque nightmare of the credit bureaus dispute system. In 2009, our report, "Automated Injustice" described how the dispute system was a travesty. That all the credit bureaus did was send the disputes to third-party vendors, sometimes off-shore, who simply turned them into two or three digit codes maybe with a line of text and sent the codes to the creditor or debt collector who supplied the information. And then the credit bureau always accepted what the creditor or debt collector responded even if it is clearly contradicted by the evidence like a court judgment or a police report.

Now in the last 10 years there has been some improvement due to examination and supervision of the credit bureaus by the Consumer Financial Protection Bureau—although with the new leadership, we're always concerned about backsliding, as well as settlement in 2015 with the credit bureaus obtained by 30 attorneys general. But as documented in our new report released just yesterday called, "Automated Injustice Redux," problems with accuracy and getting errors fixed still very much frustrate consumers like Tammy Brown and Peggy B. And they also frustrate the over one quarter million consumers who filed complaints with the Consumer Bureau against Equifax, Experian, and TransUnion, where credit report issues were the top category of complaints in 2017 and 2018.

We need a better system and wholesale reform, which is why we supported Chairwoman Waters' Comprehensive Consumer Credit Reporting Reform Act in 2017, and we support her new draft currently being discussed.

The other perplexing thing about the credit reporting system is how it doesn't distinguish between consumers with poor financial management and those who missed bills because they were unlucky.

They got sick. They lost their job. They were impacted by a natural disaster or they missed a month's pay due to being a Federal contractor affected by the government shutdown. In his written tes-

timony, Mr. Peck said that credit reports reflect good choices and hard work.

So does that mean the Federal workers made bad choices and were lazy? No, I don't believe so, and that is why we support Chairwoman Waters' Protecting Innocent Consumers Affected by a Shutdown Act being discussed.

I know others will talk about the Equifax data breach but I wanted to note one fact revealed by a report from the last Congress by the House Oversight Committee, that the computer systems used by Equifax to process credit reporting disputes was the very system hacked in the data breach and part of the problem was that this was an antique legacy system built in the 1970s. Now we know why we have been having the same complaints over and over again for the past 40 years because the credit bureaus have been using the same systems for the past 40 years.

One last point about credit invisibility, it is certainly an issue. But the Credit Access and Inclusion Act has an inclusion act passed in the last Congress is the wrong way to go about it because all it does is preempt State consumer protections for the privacy of utility customers.

And it will impede States trying to regulate the problematic practices of tenant screening agencies. By the way, the CEO's of the credit bureaus keep asking for more data. These are the same companies that had their data stolen and have high error rates. I don't know if we want to give them even more of our data. I thank you for the opportunity to testify and look forward to your questions.

[The prepared statement of Ms. Wu can be found on page 179 of the appendix.]

Chairwoman WATERS. Thank you very much. Ms. Brown, you are now recognized for 5 minutes to present your oral testimony.

STATEMENT OF JENNIFER BROWN, ASSOCIATE DIRECTOR, ECONOMIC POLICY, UNIDOSUS

Ms. BROWN. Thank you. Good afternoon, and thank you, Chairwoman Waters, Ranking Member McHenry, and distinguished members of this committee for inviting me to testify today. My name is Jennifer Brown. I am the associate director of economic policy at UnidosUS. UnidosUS is the largest national Hispanic civil rights and advocacy organization in the United States. For over 50 years, we have worked to advance opportunities for Latino families so that they can achieve economic stability through our network of nearly 300 affiliates in 35 States, the District of Columbia, and Puerto Rico. For more than 2 decades, UnidosUS has published reports, testimony, and has engaged in advocacy on issues that support strong, fair housing and lending laws and increased access to financial services.

This statement through information and stories from our affiliates focuses on how credit scores are still largely associated with income and wealth and how it perpetuates the racial wealth gap. Credit invisibility occurs most frequently in communities of color, low-income neighborhoods, in younger populations, and among immigrants. Credit scores are used for many non-lending purposes including applications for employment, housing, utility services and

even health insurance. First, I would like to take some time to discuss credit scores. Delores from Pennsylvania told us that a high credit score opens the door. A low credit score, they take away the keys.

Credit scores are supposed to be an objective measure of an individual's creditworthiness, free from the bias that has historically determined who can and cannot access credit and on what terms. Yet credit scores are still largely associated with income and assets exacerbating long-standing wealth disparities between different races and ethnicities. Communities of color have had lower incomes and therefore they have lower credit scores. This is confirmed by a report from the Federal Reserve that found that the average credit score of black Americans was approximately half that of whites and the average credit score of Latinos was more than 1/3 less than whites.

Second, I would like to discuss credit invisibility. Miguel from California told us, if I have income and the ability to pay shouldn't that determine if I can pay off a loan? According to the Consumer Financial Protection Bureau, 45 million Americans or 19.3 percent of all consumers are credit invisible, have thin credit files or lack a recent credit history. Credit invisibility, according to the Consumer Financial Protection Bureau (CFPB) occurs most frequently in communities of color, in low-income neighborhoods, in younger populations, and among immigrants. Among the factors that contribute to credit invisibility is that the credit scoring models rely on formulas and algorithms that fail to consider cultural norms such as reluctance to debt, reliance on cash, failure to account for other—other ways to pay for making on time payments.

Third, I would like to take a moment to discuss the consequences of being credit invisible. Henry from California told us, since I don't have a credit history my only option to turn on my gas and electric was to give a down payment of $500. That is a lot of money. Credit scores were originally intended to be used by lenders to access whether to approve a customer for credit. Today however, credit scores or credit histories are used for many non-lending purposes including getting a job serving frozen yogurt, to obtaining federally subsidized housing, establishing an account with a utility provider, and even signing up for health insurance.

If we continue to rely on credit bureaus as gatekeepers who can determine whether a person can obtain a job, put a roof over their heads, stay warm in the winter or cool in the summer, or secure healthcare for themselves and their families, the credit rating system will need to reflect a more accurate and transparent depiction of the creditworthiness of all Americans. Without this accuracy and transparency, the credit ratings agencies will remain, as Carla in Pennsylvania told us, the "original gangsters" because they have their own system.

In conclusion, I hope this testimony provides the committee with information on why we should fix the credit scoring system so it is not largely associated with income and wealth. Make the system more inclusive to communities of color, low income, neighborhoods and younger populations. Limit credit scores for credit purposes and prevent credit scores from being used as screeners for employment, housing, utility services and health insurance. Thank you.

[The prepared statement of Ms. Brown can be found on page 113 of the appendix.]

Chairwoman WATERS. Thank you very much. Now, Mr. Mierzwinski, you are recognized for 5 minutes to present your oral testimony.

STATEMENT OF EDMUND MIERZWINSKI, SENIOR DIRECTOR, FEDERAL CONSUMER PROGRAMS, U.S. PUBLIC INTEREST RESEARCH GROUP

Mr. MIERZWINSKI. I was going to commend you, Madam Chairwoman. That is just exactly how you say it. Chairwoman Waters, Mr. McHenry, members of the committee, I am Ed Mierzwinski and I am with the U.S. Public Interest Research Group a non-profit, non-partisan consumer advocacy group. I want to point out a few highlights from my testimony today.

First of all, every action by Congress to reform the credit reporting system was proceeded either by a scandal, a State action, or both. So in 1970, the original hearings were held to create the Fair Credit Reporting Act because Equifax, then going by Retail Credit Company, was running a—so many complaints were coming in about its investigations of people applying for insurance.

There were so many lawsuits against the company that Congress took notice, and passed the original FCRA. Then during the first big wave of consolidation, States and the FTC began investigating the credit bureaus in the late 1980s. Congress held a hearing.

I testified for the first time in 1989 before the committee and in 1992 a bill was ready to go to the Floor and in fact went to the Floor to reform the credit bureaus. But in committee, the industry had won an amendment reversing the way that the original consumer credit laws, Truth In Lending fair credit reporting and all the rest had said that any State law that is stronger is not in conflict. The industry won an amendment. We could not get rid of it on the Floor. Former Representative and Chairman Henry B. Gonzalez and his members then took the bill off the Floor and it did not pass until 1996 with limited preemption only, not the total preemption that the banks and credit bureaus sought.

But in the meantime, in Vermont, where TRW, the predecessor to Experian, had said that 3,000 people, almost everybody in the town of Norwich, Vermont, had not paid their credit bills and not paid their taxes when they had. Vermont and California passed new laws and seven States passed free credit report laws. The Federal 1996 amendments came about the time that identity theft became a problem, a big problem.

So in 2003, Congress didn't fix identity theft but it extended free credit report rights nationwide and did give the banks extended preemption but also allowed States to pass identity theft laws and so between 2003 and 2018 every State passed a data breach notice law and a credit freeze law.

Before the passage of the vaunted S2155, several States in 2018 had passed new amendments to their credit freeze laws making them free. So the industry came to the committee on the Senate side and said, let us get the free freeze into S.2155 but let us make it preempt the States. So every single time we have had a scandal

where the States act first, then Congress finally acts and not necessarily as well as the States did.

The mistakes in credit reports from PIRG's first study in 1990 credit reports were public enemy number one at the Federal Trade Commission. That was based on a FOIA report. Throughout 1990 to today, our studies have shown that credit reports are the number one complaint. You have seen it on the big jumbotron here in the committee that the Big 3 credit bureaus are still number one, two, and three in complaints at the Consumer Financial Protection Bureau.

By the way, at the bureau we have a public database. We don't have to file FOIA's. I strongly urge you to ask the Director of the CFPB when she comes in next month to keep the public database public. One other point from our complaints, in 1990 I remember a consumer said, "item remains confirmed by source, what is this source?"

I concur completely with my colleague, Chi Chi Wu, and her explanation of why the dispute system doesn't work and how your bill would fix the dispute system that doesn't work. Because the bureaus and the furniture creditors are running a con where they say their computers match so it must be okay. It isn't and we quote several "item remains" stories from the CFPB database in my comments.

We could talk about Equifax for my entire 5 minutes but my written testimony goes into great detail about how the cover—I'm sorry, the clean up, and that was a Freudian slip there, but the clean up was almost worse than the problem because of the way they botched it. Finally, I want to point out that going forward, we would like to work with the committee on other issues related to privacy. The credit bureaus are data brokers. They are the only regulated data brokers because all the rest of the thousands of data brokers don't meet the definition of a credit bureau or credit report. We need to fix that. Thank you.

[The prepared statement of Mr. Mierzwinski can be found on page 138 of the appendix.]

Chairwoman WATERS. I am going to take a moment here to advise Members that votes have been called on the Floor. We will complete our witness opening statements now and then recess for votes. The hearing will resume immediately following the Floor votes. So Mr. Brown, we are going to hear your testimony, but I want the Members to know that the votes have been called and then we will be back. Please proceed.

STATEMENT OF THOMAS P. BROWN, PARTNER, PAUL HASTINGS LAW FIRM

Mr. BROWN. Thank you, Chairwoman Waters, Ranking Member McHenry, and members of this august committee for holding this hearing and inviting me to testify. I want to make clear at the outsetthat I am here speaking in my individual capacity. I am not here representing the firm of which I am the co-chair, its Fintech practice, nor any of its clients, and I am not being paid to be here. I am speaking on this topic because it is a subject in which, as I explained to a cousin this weekend, I have a passionate interest and that interest arises from two things.

One, I taught a class on and off at UC-Berkley Law School for 10 years where I met a member of this committee, Congresswoman Porter, who is as much an expert in the FCRA as any of the people you have heard testifying here today, and two, from work that I have done on a pro bono basis for CFSI and others around the problem of financial health for all Americans. I am happy to answer questions about my testimony at length.

I do want to use the time in my opening to discuss three issues that I have heard come up over the course of the many hours that we have all been sitting here: data ownership; competition; and innovation. So let us start with data ownership. I don't believe that data ownership is a useful framework for thinking about the problems that arise with respect to consumer privacy generally or the Fair Credit Reporting Act.

Data is an intangible asset and like any intangible asset it is difficult for a single person to possess. In the sense that you can possess an instance of data but that—use of that instance of data does not deprive other people of use of that data. And rather than focusing on ownership, I think the Congress in connection with this area should focus instead on eliminating harm to consumers from misuse of their information.

This committee actually has jurisdiction over two excellent examples of how we protect consumers against harm from information that relates to them. These are Reg. E and Reg. Z, both of which protect consumers from the misuse of information that is important to them, namely information related to their accounts. I think focusing on the issue of data ownership is misplaced.

So then let us talk about competition. Competition is a subject that is near and dear to my heart. The last time that I sat in this room, I was staffing a former Member, a former Chair of the Federal Trade Commission. I am an anti-trust in consumer protection litigator by background. I believe that these things relate deeply to one another. And there are two aspects to competition that I think have surfaced in today's hearing that are worth discussing. The first, and this really responds to a question that Congressman Duffy asked earlier is, why can't all the bureaus get together and create a mechanism that allows people to freeze their reports? Well, because Section one of the Sherman Act makes it very difficult for companies that are in competition with one another to collaborate.

The operative language of—well the Sherman Act is contracts, combinations and restraint of trade are prohibited. And although it is not impossible, it is difficult for those entities to collaborate, to offer products to consumers.

Now, there may be ways that the entities can collaborate with respect to, for example, identifying furnishers that provide inaccurate information on a systemic basis. There are examples, as Congresswoman Porter observed earlier, from the card industry where the card networks share information about terminated merchants. That is a mechanism that has worked reasonably well in policing bad activity on the part of merchants in the payment industry and it is an idea that I think is worth exploring here.

So what is the other dimension in which I think competition is interesting. Well, it relates to the oligopoly structure that has been

a topic of discussion. As a product of the University of Chicago where we see an industry that is not organized in a way that we would expect. We should look among other places at the underlying regulatory framework.

The FCRA, as I detail in my testimony, is extremely technical and it serves as a barrier to entry into the space. That takes me to the final issue, inclusion. I have 30 seconds. I do believe quite passionately that to address the problem of inclusion we do need to provide consumers with the ability to provide information about themselves to people who are willing to provide loans.

Congress has spoken on this issue through Section 1033 of Dodd-Frank. The CFPB and the prudential regulators have not taken the issue up. I believe that the committee should ask the new Director of the CFPB about the Bureau's position on that issue when she appears in a week.

[The prepared statement of Mr. Brown can be found on page 123 of the appendix.]

Chairwoman WATERS. The committee will stand in recess.

[recess]

Chairwoman WATERS. The committee will come to order. I now recognize myself for 5 minutes for questions. I want to talk about comprehensive reform. It is clear that Congress should consider a number of actions to address concerns exposed by the Equifax data breach, including accurate reporting, a dispute resolution process that is unfriendly for our consumers, and other systemic problems. Ms. Wu, if my comprehensive consumer credit reporting reform bill were enacted into law, would you briefly discuss how some of the provisions would be better for consumers than current law?

Ms. WU. Absolutely, and thank you very much for introducing the comprehensive consumer credit reporting reform bill so many times. First of all, the bill would provide for an appeals right for consumers who have been frustrated trying to fix errors in their credit reports. That would address the issue I talked about how right now they deal with a Kafkaesque system. It would reduce the impact of negative information from 7 years to 4 years and that would help consumers with their credit reports. It would allow them to remove the negative information from predatory loans and for-profit school fraud. It would provide for injunctive relief. They can ask a court to fix their credit reports.

It would help deal with medical debt by preventing information from going on for a full year, so that consumers have the ability to fix all these errors that happened because of insurance coverage and insurance denials. You know, questions about what is this bill and also remove paid or settled medical debt. And it would severely restrict the use of credit reports in employment, which we think is entirely unfair and has a racially discriminatory impact. It is such a great bill and there is so much that I am probably missing a lot of important points.

Chairwoman WATERS. Go ahead.

Ms. WU. It would do so much to help consumers. It would require the CFPB to engage in a rulemaking on issues about matching. As I mentioned before, one of the worst problems is mixed files when you mix up two consumers. And it is because credit bureaus have this incentive to be overly inclusive of negative information. And

so, they need to crack down on how they match information, use all 9 digits of the Social Security number or at least 8 digits, and maybe a full name and address.

By the way, the CFPB did get them at least to take off all this public record and lawsuit and tax lien information because they were having trouble making sure it was the right consumer. That this Richard Smith, he was the actual Richard Smith who was being sued because Social Security numbers don't show up on court records. And so getting the CFPB to do a rulemaking to make sure data is more accurate would be really helpful.

Chairwoman WATERS. Thank you very much. Mr. Mierzwinski, Ms. Brown or Ms. Rice, would you like to add to anything? For example, should Congress consider giving the credit bureau regulators similar powers that other regulators have with respect to banks, such as the ability to remove senior executives, limit the company's asset size, or even wind down their operations if they repeatedly violate the law and harm consumers? Now, you may not have thought about these particular remedies but what comes to mind?

Mr. MIERZWINSKI. Well, Congresswoman, I think those are great ideas. The banking regulators have the power to shut down a bank, throw out a CEO or do a lot of things that the CFPB cannot do, although the CFPB has more powers than the old FTC did. And the old FTC did fight with one hand tied behind its back for 40 years against the credit bureaus and their mistakes.

But I would support looking at any of those improvements because again, as many people have pointed out including the ranking member here today, we have an oligopoly of three powerful gatekeepers. We don't have any competition so we should have more power over the credit bureaus. Thank you.

Ms. RICE. Congresswoman, if I could just add one of the most important parts of the provisions of your law I think relates to removing information from predatory lending and abusive practices. As I mentioned previously, predatory lenders are hyper concentrated in communities of color. This has grave ratio disparities and the products that those lenders perpetuated were unsustainable. They were designed to push borrowers into delinquency and as we have mentioned before the repository system does not rate the type of credit that the person is getting. It infers that abuse onto the consumer.

Chairwoman WATERS. Thank you very much. The Chair now recognizes the distinguished ranking member, Mr. McHenry, for 5 minutes of questions.

Mr. MCHENRY. Thank you, Chairwoman Waters. I want to thank the panel for staying. It is been quite a day, but I do appreciate it and I appreciate your testimony as well. What I would say is, I think what was interesting about the first panel is no one seemed concerned in the panel that the Fair Credit Reporting Act was outdated or in need of updating. Right? Let's just go across the panel. Does FCRA need updating?

Ms. RICE. Yes.

Mr. BROWN. Yes.

Mr. MIERZWINSKI. Yes.

Ms. BROWN. Yes.

Ms. WU. Yes.

Mr. MCHENRY. For the record, everyone says "yes" on the second panel. We have four Democratic witnesses and one Republican witness—not that that matters of your affiliation but that is who requested your attendance. So getting into that, why haven't we had more innovation? Why have we not had more companies enter the picture? Why is it just the big three? Mr. Brown?

Mr. BROWN. I know that not everybody on the panel is going to agree with my view on this but the prospect of taking on the bureaus, even independent of the underlying regulatory regime, is daunting. The businesses were described today and we have been sort of seeing the slides. They have relationships with thousands of furnishers who give them data. They process, synthesize, and assemble that data and then sell it to a large number of financial institutions.

Those incumbent customer relationships and information sourcing relationships just on their own would be difficult to challenge and then the underlying regulatory framework is from the standpoint of thinking about launching a new full fledged bureau is daunting. I think all of us here probably reasonably well understand what the requirements are for a large-scale bureau. We are all trained or at least many of us are trained to par statutes but most of the people who are thinking about launching a new FinTech business are not lawyers by nature. They are engineers, and of all of the statutes that you are going to tackle as an engineer, the FCRA would be at the bottom of the list.

As I have mentioned in my written testimony, I do think that there is evidence of innovation. It is just coming from adjacent areas and I think that for—in thinking about—

Mr. MCHENRY. So where is their innovation?

Mr. BROWN. I talk about a little bit about this in my testimony but one area is in allowing consumers to furnish information to people who will provide them financial services. We see a range of companies that are offering such services, many of which are trying to tackle and compete with some of the predatory products that have been available for a long time. I can rattle them off quickly. Companies like Earnin, Evein, Pay Active and others that are introducing alternatives to payday loans. We have seen it in the incorporation of cash flow data in products offered by folks like Peddle and Opportune. All of which are trying to find ways to provide consumers with the ability to directly provision information that would not be accessible through a credit report.

Mr. MCHENRY. Okay. So if you look at the consumer data that these three groups have, the Social Security number as we have heard in previous testimony and written testimony. Use of the Social Security number and—and data surrounding that makes the theft of that data even more detrimental to consumers. Right?

When a Democrat colleague of mine raised this question in the first panel, two factor authentifications for basic standards of tech, these companies have not complied with that. What is your thought, just in this final minute we have, on the utilization of the Social Security number as an identifier? Would it be proper to step in and restrict that capacity for these bureaus to use our Social Security numbers as a identifier?

Ms. WU. So the problem with the use of the Social Security number, if I may, is not as an identifier but as a verifier or authenticator. And it is really important to separate them out because, take the example of Richard Smith. There are many Richard Smith's, the former CEO of Equifax, in the United States. There's only one Richard Smith with the Social Security number "123456789."

Mr. MCHENRY. Sure.

Ms. WU. In order to match data correctly, you need that unique identifier. So it is not the use as an identifier. It is used as a verifier because what it says is this person online or over the phone can say, my Social Security number is "123456789" and that proves who I am. And that is the problem. It is the use of an authenticator. We need different and better authenticators—

Mr. MCHENRY. Does everybody agree?

Ms. WU. Yes.

Ms. BROWN. Yes.

Mr. BROWN. Yes.

Ms. RICE. Yes.

Mr. MIERZWINSKI. Yes.

Mr. MCHENRY. All right. So that distinction between the two should be an element of discussions we have as policy makers. Ms. Wu?

Ms. WU. Yes, absolutely.

Mr. MCHENRY. Okay.

All right. Thank you all for your testimony. Thank you for your engagement, and thank you for caring about our constituents and trying to protect them.

Thank you.

Chairwoman WATERS. Thank you.

The gentleman from Missouri, Mr. Clay, is recognized for 5 minutes.

Mr. CLAY. Thank you, Madam Chairwoman.

Let me start with Ms. Rice.

And thank you all for being here.

Ms. Rice, a large part of what the Congressional Black Caucus seeks to do is eradicate the racial wealth gap. And indeed, as my father, former Congressman Bill Clay, said, we have no permanent friends nor enemies, just permanent interests. And we must address this debilitating economic disparity everywhere it exists, including in the credit industry.

I hear conservative commentators and other people of that ilk talk about how race is overblown, irrelevant, or doesn't even exist. Your testimony presents demonstrable facts to the contrary. Not only does race matter, but the question of race to this day still impacts the ability of a black person to walk into a retail outlet or try to buy a home.

Could you discuss the history of the Home Owners Loan Corporation and how this and the FHA discriminated against African-Americans and the dual credit market, which you referenced in your testimony?

Ms. RICE. Thank you, Congressman Clay. I would be happy to respond to your question, and thank you for it.

Throughout the entire history of the United States of America, so even if you go back to the colonialization period of our nation, our housing and finance policies have been racialized. In other words, those who had access to the benefits were, by and large—actually, sexualized and racialized—white men, right?

So we start out with the colonialization period: White men received 50 acres to 100 acres of land for every person in their household, including slaves and indentured servants. And that land was taken from indigenous peoples by militia and given to those white households.

So fast-forward to the Great Depression, when the Federal Government implemented two major housing entities, the Home Owners Loan Corporation—the Home Owners Loan Corporation did not invent redlining. Redlining already preexisted. But what it did do was it said that we had to have policies that promoted residential segregation. Remember, we are more residentially segregated today than we were 100 years ago, largely because of the policies that were perpetuated by the Federal Government.

So the Home Owners—

Mr. CLAY. Which created the middle class in America, correct, with government backstops of mortgages?

Ms. RICE. Yes. Those products that were developed by the government through the HOLC program and the Federal Housing Administration program provided opportunities for white Americans to obtain quality, sustainable credit, and they disclosed opportunities to people of color. And that is how the middle class was basically built, through the development of those two programs.

Now the problem and the challenge is because those programs developed and implemented systemized ways of providing credit to people, it fueled and exacerbated what we call the dual credit market. And I have a graphic of that in my written testimony.

The problem is we are still being impacted by this system today. We still have this system.

So if you access credit on the tan side those credit providers do not report positive payment to the credit repositories. But if you access credit on the blue side your positive payment is reported to the credit repositories.

In a perverse arrangement, your negative information if you are accessing credit on the tan side—that negative information is reflected in the credit repository system. And so you see, you have a good chance if you are accessing credit here to get a deflated—a poor credit score, but you also have a higher chance of being credit invisible because the positive payments are not reported to the credit repository system.

Mr. CLAY. And, Ms. Wu or Mr. Mierzwinski, can you tell me how do we break the culture of this? How do we help families build wealth?

Ms. Wu?

Ms. WU. Well, one issue is the fact that credit scores reflect this racial wealth gap, and we use credit scores and credit reports in ways that they shouldn't be used, like for employment, or for insurance, or for tenancy. So one way to stop the cycle is to stop using the data that actually reflect discrimination.

Another way is to look at different kinds of data that has less disparate impact.

Mr. CLAY. My time is up. I have to yield back.

Chairwoman WATERS. Thank you very much.

Mr. CLAY. Thank you.

Chairwoman WATERS. I now recognize Mr. Scott, the gentleman from Georgia, for 5 minutes.

Mr. SCOTT. That would be going to the other side, but there's no other side.

Let me just ask you, this morning when we had the chief executives here and I was very much awakened to something I was only dimly aware of, and that was this—what do we call it, the dispute resolution process. And I want to talk about that for a moment.

We were able to discover this morning that even if it is proven that it was the agency, the credit agency, who was at fault, who made the mistakes within the reporting—wrong birthdate, whatever—we pointed out where that costs jobs, it costs education loans, it costs lending, it just causes a whole—we are a credit-based economy. And it just surprised me and concerned me that even when the credit agency itself is at fault in these, do you all think it is right if they have to take this dispute resolution all the way up to the courts? They have to hire a lawyer? They have to go through that? And it is not their fault.

It just seems to me that we ought to address that. And Chairwoman Waters has a bill, the Comprehensive Consumer Credit Reporting Reform bill, and I think it is something we ought to address here because I don't think that is right. And I think that we ought to do it in a way that will bring the credit agencies to the table, and put the right kind of language in there.

It doesn't have to be the final language, but it could be language that would get their attention, because too many of these errors are taking place. It is the number one issue that the Consumer Financial Protection Bureau—it is at 60 percent is on inaccuracies.

So I would like to get your comments on that. Do you think I am right? Is it something for which we ought to be able to draw up some kind of language?

If nothing else, it would get their attention to make sure that these errors will stop, if it has to come out of their pockets to help defray this court cost for a problem that they caused.

Ms. Brown? Any of you? Do you think that is feasible or am I being too tough on them?

Mr. MIERZWINSKI. Mr. Scott, I would say that the Comprehensive Consumer Credit Reporting Reform Act includes a very important solution to this, and that is to give people the right to appeal disputes. Right now, disputes are a mess. We tried to fix them in 1996; we tried to fix them in 2003; and this bill includes a number of factors to fix them better.

But up until now, as Ms. Wu has testified in great detail, you have a system that is gamed against the consumer. So that would be my first advice.

Ms. WU. And I agree absolutely that the credit bureaus need to be brought to account on disputes. The Comprehensive Consumer Credit Reporting Reform Act would do that.

It is even worse. Do you know that 40 percent of disputes involve debt collectors, but they only provide 13 percent of the account information in the system? So it is disproportionately debt collectors.

And you have to figure, is a debt collector going to be fair about removing mistakes or do they just simply want to keep it on so they can get paid from whomever?

Mr. SCOTT. Well, one of the things I want to do is I think this dispute resolution needs to be improved. And I would look, and hopefully you all will take a more jaundiced eye at looking at it and advising us on what steps we can take to strengthen this aspect of Ms. Waters' bill. I know she is going to be dealing with that, but—

Mr. CLAY. [presiding].The gentleman's time has expired.

Mr. SCOTT. All right. No problem. Thank you.

Mr. CLAY. I now recognize the gentleman from Illinois, Mr. Foster.

Mr. FOSTER. Thank you, Mr. Chairman.

Well, I was interested that it has repeatedly come up in this testimony that data errors are—a dominant source of them are misidentification of individuals, and that the use of the Social Security number as an identifier as opposed to an authenticator is just something that we get wrong in this—in this country, that—that we should be using it only as an identifier.

And there is a group called the Better Identity Coalition—are you familiar with this group? They are actually looking at, you know, Mr. Mierzwinski—and I would be wondering—I guess I can—if you could answer this with some time to think about it, look over the recommendations of the Better Identity Coalition and see if there are problems that you see from the consumer point of view of taking their recommendations, which is basically the suggestion that our country transition on how we use the Social Security number and then use it more generally, everything from IRS tax refunds going to the correct person and just—there's a long list of things that—that could be improved, and—to reduce identity errors.

And so I will be submitting a question for the record on that.

And the second thing, Ms. Rice, you know, I represent Joliet and Aurora, Illinois, and I looked over the redlining maps that I think, what was it, Richmond University put online, and accompanied by the just incredibly bigoted comments that the people who designed the red lines put with each neighborhood. And then I look over those neighborhoods and I feel that I can see the fingerprints of that redlining in how those are today. And it made me furious.

But my question, then, is one that relates to the business of using neural networks and advanced algorithms to do credit selection. And there's a problem here that isn't entirely the fault of the companies that are doing this, which is that because of this unjustified discrimination you have different groups, different demographics have different amounts of wealth, for example, and if you are in danger of missing a payment it is very common that it is—if you have a wealthy relative then you can go hit them up for some money so you can actually make this month's payment.

And so as a result it is actually statistically true that people with wealthier relatives, certain protected classes, in fact, have better or

worse statistical odds of defaulting on a debt, and so that if the algorithms left to themselves will then identify these protected classes and adjust their credit ratings or—or the amount that they actually get charged for statistically correct reasons.

And we have decided as a country that, okay, it might be that a woman is a worse credit risk because she might get pregnant and a man won't, and so as a result statistically there's a difference, but we have decided as a country we are not going to discriminate that way.

Then if you turn things loose to algorithms—and I was looking over the—I guess it was the Equifax NeuroDecision product that they are marketing. They use a wide variety of information, and I would not—I am actually an artificial intelligence programmer, so I actually understand how this stuff can work. It will be very easy for the algorithms to simply come up with a proxy for race, or gender, or all these protected classes and effectively use that.

How do you solve this problem?

Ms. RICE. Well, there are a number of ways to solve the problem. And one thing that I do want to point out to you, which I have mentioned in my testimony, is just the point that you are making, that data is not blind; it is not innocuous.

Researchers at Berkeley very recently did an analysis of FinTech firms who only rely on algorithms for the decisioning and the pricing, and what they found was that these FinTech firms who only use algorithmic lending are discriminating against African Americans and Latinos because they haven't removed the discrimination from the system but really just shifted the mode and the mechanism for discriminating.

It is estimated that these FinTech firms are charging borrowers of color between $250 million to $500 million extra per year because of the discriminatory pricing, and so—

Mr. FOSTER. Right. But, this is not a deliberate action by the FinTech firms. It is a reflection of the reality—

Ms. RICE. Right. It is a reflection.

Mr. FOSTER. —that groups that have suffered discrimination, they themselves and their relatives and everyone else may have less money, and it is statistically correct. These algorithms are not dumb. They identify the fact that certain protected groups are better or worse credit risks.

But still as a society we cannot let that happen, and so we have to tell the algorithms no.

Ms. RICE. It is more than that. It is more than just the wealth factor, but you are absolutely right, the wealth factor is a huge part of it.

Mr. CLAY. The gentleman's time has expired.

I now recognize the gentleman from West Virginia, Mr. Mooney, for 5 minutes.

Mr. MOONEY. Thank you, Mr. Chairman.

My question is for Tom Brown, and I have a comment before the question.

Mr. Brown, looked like you were wanting to jump in there, so I am going to yield you a minute or whatever you need to comment on that last discussion.

Mr. BROWN. I wanted to provide a note of optimism, Congressman Foster. I represented Upstart when they applied for a no-action letter from the CFPB related to the inclusion of new data in connection with underwriting models, and the outcome of that process under Director Cordray was to grant that no-action letter around the design of a compliance management process that would identify and control for the problem that you have identified. And I would be happy to talk about that with you more, but I don't think it is as pessimistic a picture as the one that has been portrayed.

Mr. MOONEY. Thank you, Mr. Brown.

I know the intention of this legislation and numerous other pieces of legislation that we have seen over the years is to create more equity and help people. My concern is it has the opposite effect: Adding these regulations, these restrictions, these second-guessings, these requirements actually prevent loans and credit from going to people who need it the most—people with low-income scale, people who need the loans the most.

So, Mr. Brown, what would happen—my question to you is what would happen to the availability and cost of credit if we eliminated entire categories of debt from credit scores?

Mr. BROWN. It is highly likely that the reports themselves would be less predictive and that that would increase the price of credit or decrease its availability.

Mr. MOONEY. And what would the effect on people be to that?

Mr. BROWN. It would leave people will less access to credit, and exacerbate some of the wealth disparities that have been observed and discussed for several hours.

Mr. MOONEY. Yes, so the goal of the bill would have the opposite effect, like I said in my comments. Do you think that is a fair portrayal of what—

Mr. BROWN. I think that is fair, yes.

Mr. MOONEY. Well, thank you.

Mr. MIERZWINSKI. Congressman, could I make a brief—

Mr. MOONEY. I would like to yield my time—no. I would like to yield my time to the Republican leader.

Mr. MCHENRY. Well, I thank my colleague for yielding.

I just want to ask this question to the whole panel, which is, I said initially these three represent an oligopoly. And so the basic definition of an oligopoly is that you have thin providers, meaning—thin providers, and thus narrow competition or no competition. So do you see competition between the big three—do you, or not? So let me just restate my question: Do you think the big three represent an oligopoly?

Ms. WU. Absolutely. I think—

Mr. MCHENRY. Ms. Rice?

Sorry, I was—

Ms. WU. Absolutely. They are an oligopoly. They are an oligopoly whose customers are the creditors, not the consumers.

Mr. MCHENRY. Ms. Rice?

Ms. RICE. Yes.

Ms. BROWN. Yes.

Mr. MIERZWINSKI. I totally agree, and I would add that oligopolists are like monopolists. They extract monopoly rents,

meaning they make extra money without making innovations. And the classic example would be this Equifax 1979 computer, or whatever year it was, that they were using, the legacy systems. Like AT&T with a—you could have any phone you want as long as it is black.

And one more thing: They are following the Amazon, Facebook, and Google playbook of buying up their competitors or erstwhile potential competitors. So they are seeing who might be a competitor and they are buying them up.

There was a big wave that ended up with three companies in 1992, and today those three companies exercise their power first by extracting extra money, and second by buying up anybody that might compete.

Mr. MCHENRY. Mr. Brown?

Mr. BROWN. I think the market structure certainly is consistent with the idea of an oligopoly. I hesitate as an antitrust lawyer to label it as such without more investigation, but on its surface there is evidence of concentration and it is a relatively narrow market category.

Mr. MCHENRY. There was testimony in the first panel that there are a great deal of folks who are in the same industry, and therefore that represents competition. Do you all agree with that assertion?

Mr. BROWN. I think you are getting a technical answer to a very technical question, which is that the scope of the FCRA, in the sense of the number of discrete companies it covers, is broad, so individuals who are providing background checks, for example, can be covered by the FCRA.

When I look at this industry and I look for evidence of innovation I see it as I indicated in my testimony, that it comes from adjacent areas, not—not necessarily from within the scope of—of what the FCRA regulates.

Mr. MCHENRY. Mr—

Mr. MIERZWINSKI. No, I would agree with Mr. Brown.

Ms. WU. Yes, I would agree with Mr. Brown. Those are specialty agencies; they are not in the same market as the credit bureaus.

Mr. CLAY. The gentleman's time has expired.

And I now recognize the gentlewoman from Michigan, Ms. Tlaib, for 5 minutes.

Ms. TLAIB. Thank you, Mr. Chairman.

Thank you all so much for being here and for being such strong advocates on this issue.

This is very, very close to many of the residents at home, and I want you to know, Ms. Wu, when you mentioned disparate impact it kind of hit something for me as a social justice lawyer, but also when we all taut and praise the fact that we passed the Civil Rights Act in 1964, we don't really fully understand over the last 50 years how the courts got more conservative and watered it down to where we can't even show disparate impact as an element of getting—basically being able to show discriminatory practices like the use of credit scoring by the car insurance industry.

And many of the data I have been reading and information is the auto industry uses this as saying, look, if they have a low credit score the likelihood of them committing so-called fraud is higher,

basically saying if you are low-income or poor then you must be some sort of criminal. And not only by $10, $20; we are talking about hundreds of dollars, sometimes thousands more dollars because of credit scoring.

What have your agencies—and I will start with you, Ms. Wu—what has your agency done to try to combat the use of that? Because it worries me. It is the auto insurance today, right, and we talked about access to rent—to be able to be a renter with your family, access to so many other things is so much based on credit scoring.

Ms. WU. Absolutely, Congresswoman, we totally agree. There are huge racial disparities in credit scores. There are 20 years' worth of studies. Study after study after study shows this.

And so number one, we think credit scores should not be used for any non-credit purposes such as employment, insurance, auto, home, or rental. This is what they call mission creep. Credit scores were designed to evaluate credit, not whether you are a good worker.

Because there is this myth out there that if you have bad credit, you are a bad person, you are amoral. That is wrong.

If you have bad credit it is more likely you fell on hard times, you lost your job, you got sick, you were affected by the shutdown, a natural disaster happened. And we have to stop beating up on these folks who just lack money and have had financial troubles.

And so I think we need better ways, in terms of credit, of evaluating people. And it is going to be hard because everything financially related is going to show disparate impact because it is all about structural racism. Racism is baked into the cake of financial stuff in the United States, right? And it is exactly as Ms. Rice described.

For someone from a white family, $100,000 in assets means if you lose your job you can still cover your bill. But $6,000 or $8,000 in assets means you can't, and that shows up on your credit score, and that means you can't get a job or your insurance goes up and it is that much harder. And it is a vicious cycle, and we have to break that vicious cycle.

Ms. RICE. And if I can answer your question specifically on the insurance issue, so the National Fair Housing Alliance, along with a number of our member organizations, when I ran the Toledo Fair Housing Center, sued a number of insurance companies for insurance redlining and for the application, the discriminatory application of the insurance scoring mechanisms.

In one such case we actually tore apart the insurance score, the algorithm that the insurance company was using—it was their own proprietary system—and found that there were ways that we could adjust the algorithm, taking out certain variables and changing the weighting in other variables, that actually increased the predictive power of the algorithm but reduced the discriminatory impact.

We also work very closely with several insurance organizations that we have had partnerships with for a number of years, and we work with them on their proprietary scoring systems to do the same thing. So we do a lot of disparate impact testing to make sure that we are lessening the discriminatory effect.

Ms. TLAIB. We are just running out of time to—I want you to know, my first bill, the Justice For All Civil Rights Act, is going to basically be able to say we have to—you can show disparate impact to be able to get some sort of legal resolution to this, because I feel like even with Chairwoman Waters' bill, as well as other fixes that we try to have, I find that the corporations and the industry will always find a way to target people of color and low-income families, and I feel like the only way is to always have this overwhelming oversight no matter who's in control here and who's in the body, but some sort of access for organizations like yours to say and to show the disparate impact, to show the racial structure that is there in the process.

But I want to thank all of you so much again for your advocacy, and I yield my time back.

Chairwoman WATERS. Thank you.

The gentlewoman from New York, Ms. Ocasio-Cortez, is recognized for 5 minutes.

Ms. OCASIO-CORTEZ. Thank you, Madam Chairwoman.

Earlier today we had the CEOs of the three major credit reporting bureaus here and these folks are responsible for the credit reports and the credit reporting of virtually every American. And I asked a question that was not answered—that was not directly answered at all, which is given the fact that these credit bureaus, the only in existence that are at—at the level or of the size that they are at, they—given the fact that they are—there are only for-profit corporations, that it is only for-profit corporations that are managing and—and responsible for these credit bureaus, their primary customers are creditors; they are lenders; they are banks. All of—the majority, the lion's share of their revenue comes from people who are lending to everyday people.

Do you think, Ms. Wu, that given their current structure and the just basic business model of credit—credit—credit agencies, credit bureau agencies, do you think that they are incentivized, structurally incentivized to protect consumers more than creditors?

Ms. WU. Absolutely not. Thank you for the question, Congresswoman.

The credit bureaus are incentivized to favor the interests of creditors over consumers, not the other way around. And the perfect example of it is the broken dispute process.

The reason it was so Kafkaesque—that they just turn things into codes and accept whatever the creditors say is it—number one, it saves them money. At one point they were only paying 53 cents a dispute, so the disputes were a cost center and they were trying to cut the price.

And also they always take the side of the creditors in a dispute. It is like a judge who always rules for the defendant, and they still do that.

If you saw the testimony of Mr. Peck, they don't make an independent call. If the creditor says, I am right, even if the consumer has a judgment or a police report, the creditor wins all the time. And that is why an appeal right in Congresswoman Waters' bill is so important.

Ms. OCASIO-CORTEZ. And so you would say that a credit score—well, let's go back to the basics. What is a credit score supposed to measure?

Ms. WU. So a credit score technically was designed to do one thing, which was to predict the likelihood someone would be 90 days late in a 2-year period. That is it. The fact that it is used for anything else is a travesty because it wasn't designed for that.

Ms. OCASIO-CORTEZ. So a credit score is supposed to measure the likelihood of being 90 days late over a 2-year payment period. Do you think that the current scoring algorithms and structures are being designed with that specific metric in mind?

Ms. Brown?

Ms. BROWN. Absolutely not. Ms. Wu and I both wrote in our testimony—in our written testimony—about how there is this mission creep. It is literally pervading all of society today.

You can see it especially in the housing rental market, of how you have the big three that were here today selling all of your rental information packaged with your credit history in order to determine whether or not you are a good renter.

Ms. OCASIO-CORTEZ. Ms. Brown, you bring up a really important point, you are talking about mission creep—and folks here on the panel feel free to weigh in as you see fit. My question is, if they aren't developing scores with the original mission in mind, what do you think the incentive or the credit bureaus' mission actually is?

Mr. BROWN. Well, so for what it is worth I—and this is a point that I describe in my testimony, it is important to distinguish between scores and reports.

Ms. OCASIO-CORTEZ. Right.

Mr. BROWN. So the entities that were up here this morning are collecting information that is then reported to people who are underwriting. Those underwriters are going to either develop scores or use their parties to develop scores—

Ms. OCASIO-CORTEZ. Thank you. Thank you for the clarification.

So when it comes to reporting—my mistake. Thank you. When it comes to the reporting, if they—if these reports are not being generated with that incentive in mind, what is their incentive? What do you think, whether it is consciously or subconsciously, what do you think that these incentives—what mission do they serve? What end point are they actually resulting—

Ms. WU. The mission creep and the incentive is to sell more data. Sell more reports. Every report they sell is money.

Ms. OCASIO-CORTEZ. So they aren't as incentivized to actually come up with the most accurate 90-day predictor possible. They are incentivized to sell data.

Ms. WU. That is right.

Ms. OCASIO-CORTEZ. And to collect as much data about each and every single American.

Ms. WU. That is right. You heard them. They want more data. And more data. They want more. Give me more.

Ms. OCASIO-CORTEZ. And especially when they are—when consumers don't even get to opt in, or choose, or offer consent as to what data is being collected, we have an oligopoly of three major corporations that are trying to collect as much data as possible without consumer consent.

Chairwoman WATERS. The gentlelady's time has expired.

Ms. OCASIO-CORTEZ. Thank you.

Chairwoman WATERS. I now recognize the gentlewoman from Massachusetts, Ms. Pressley, for 5 minutes.

Ms. PRESSLEY. Thank you, Madam Chairwoman.

And again, I am in the unenviable position of being last or close to, so I thank my committee members, again, for their robust and thoughtful line of questioning, and I thank each and every one of you for your commitment here today and every day. Your testimony has been incredibly informative and also impassioned.

I wanted to ask, since we talk a lot about the wealth gap, and there are many ways that we talk about how to get at that, and certainly there are stark disparities along racial lines. And so I would be curious as to how much do you think this current system is contributing to the wealth gap? And if you were to give a three-point recommendation of how to address these inequities, which I believe are either created by this system or exacerbated by them, what would it include?

Ms. RICE. I would say the system perpetuates the wealth gap for a number of reasons. Just one example, the dual credit market that I showed you guys the illustration of recognized that the subprime or nontraditional lenders are hyper-concentrated in communities of color where there are a dearth of mainstream—so you don't have banks and financial—and credit unions in communities of color, but you have a plethora of credit check-cashers, and payday lenders, and buy-here-pay-here lenders who are all peddling abusive products, right, and they are not reporting positive information to the credit repository systems, and there's a reason for that.

So you have this system that is perpetuating racial disparities and inequalities.

So, three things that we should do? One is adverse information related to discrimination, fraud, and abuse should be removed from the credit repository system.

Several years ago the DOJ dinged Bank of America for discriminating to over 200,000 African Americans and Latinos, pushing them into predatory loans when they really qualified for prime loans. So that is 200,000 consumers who are having negative information about them reflected in our credit repository systems.

It is not accurate. It is discriminatory and it is negatively impacting them. That information needs to be removed from the credit repository systems.

Ms. PRESSLEY. Absolutely. I know even in the district I represent in Massachusetts, there have been something like 3,000 of those complaints based on erroneous data just in the last 2 years alone. That is what we can quantify. So thank you for that.

And to your point about access, now you would like to think that when you have more you do better, but there's something to be said for education and access. In full disclosure, when I was an aide on the House side in my early 20s I still went every week to cash my check at a check-cashing facility.

I did not have a checking account until I was much later into my 20s because no one in my family or in close proximity to me had a checking account, and for all the reasons that you spoke to earlier, a reluctance to go into debt. We took great pride in the num-

ber of things that we did pay for in cash. We thought that was an honorable thing. And so I know what it is to be underbanked and to be credit invisible, and what that impact is generationally.

So could you speak a little bit as to how we might better combat credit invisibility?

Ms. BROWN. I can do that.

First off, you have to actually have access to institutions and banking institutions. And you are not alone. We actually published this Latino banking report in December of last year that actually talks about how many people in this country are banked, unbanked, or underbanked.

And so first you have to increase access to those traditional banking institutions. And you have to lend credit through those institutions in order to not fall into, second, this alternative financial system that Ms. Rice discussed on the left-hand side of her image. And then last, you have to actually help people build their credit through secured cards, through programs like our small-dollar loan program. You have to actually help people get into the system and build their credit in a positive manner.

Ms. PRESSLEY. How do we guard against, then, predatory behaviors in that? Because then we create another market and not everyone is well-meaning in that, but—

Ms. WU. Well, I just wanted to say that we need to be careful in terms of alternative data. There's good data; there's bad data. Bank account data has been promising. Some other types of data like gas and electric bills can be dangerous.

And also certain types of data make inequality worse—like use of education, for example. You don't want to do that. And unfortunately, I think Upstart uses education in its underwriting. So that can be problematic, too.

Ms. PRESSLEY. Thank you.

Chairwoman WATERS. Thank you very much.

The gentlewoman from Texas is recognized for 5 minutes.

Ms. GARCIA OF TEXAS. Thank you, Madam Chairwoman.

Representative Pressley, you were not the last. I think I am. We saved the best for last, I assure you.

Ms. Rice, I want to go back to you on your—thank you for that history on people of color. And I just wondered, while the history may not be the same, going forward is and currently is the same.

So what impact do some of these predatory practices and the lack of visibility in the have on Latinos, new Americans, immigrants? My concern is moving forward. We can't fix what happened in the past, but moving forward what impact—can you talk about that in terms of the credit issues that we have?

Ms. RICE. I would be be happy to.

And I think the point of going through the history is to explain how it is still impacting us today.

Ms. GARCIA OF TEXAS. Sure.

Ms. RICE. But going forward, so we know that Latinos and African Americans and certain segments of the Asian populations disproportionately access credit in this tan space because, to—to Congresswoman Pressley's point, those are the only credit providers in their communities.

Ms. GARCIA OF TEXAS. So all—the same chart applies to all of them?

Ms. RICE. This is today.

Now, you access credit from a credit provider in this tan space who does report information to the credit repositories. You pay your bill on time. You never, ever, ever, ever miss a beat, right? You are dinged in the credit scoring mechanism because the credit scoring algorithm assumes that because you are accessing credit in the tan space there's something wrong with you, right?

The credit scoring algorithm doesn't understand that you are accessing credit in the tan space because there are no blue-space folks in your neighborhood. So it is dinging you, the consumer, for the failure of the system. You can be dinged in the FICO score up to 20 points for each time you are accessing credit in the tan space.

Again, you are paying on time, never miss a beat, but your credit score goes down just because of where you live.

Ms. GARCIA OF TEXAS. Got it.

To Ms. Brown, I do want to ask you the same question. And I was curious about the study that you held up.

So are you all seeing or hearing any stories any differently?

Ms. BROWN. No, actually, and I was going to tell you the rates in which Latinos are actually accessing alternative financial services through our fact sheet here.

So in 2017—and by the way, this data is from the FDIC and these are rosy statistics. In 2017, 32.4 percent of Latino households used alternative financial services in the previous 12 months, so one in three.

Ms. GARCIA OF TEXAS. Did it describe which alternatives? Just tell me it is not payday lenders.

Ms. BROWN. We can get that information for you. The FDIC does actually break down which one of the AFS that people use.

It is not just Latinos. This data is not Latino-specific. It is actually any and all communities of color and also whites.

Ms. GARCIA OF TEXAS. So when you say Latinos does that include immigrants who may or may not have authorization to be in this country?

Ms. BROWN. It is not that one—the FDIC data does not actually ask a foreign-born or citizenship question.

Ms. GARCIA OF TEXAS. Do the credit agencies do that?

Ms. BROWN. I am not quite sure of the answer to that question.

Ms. GARCIA OF TEXAS. I am sorry I wasn't here to ask that question of the big three.

But I want to ask all of you, so I guess I was just really thinking of the model of credit unions. We got tired of the fees; we got tired of the banks. So we allowed credit unions to form through employees, through nonprofits, through other means.

So has anyone ever tried to do that in this arena?

Mr. BROWN. Yes.

Ms. GARCIA OF TEXAS. In starting your own credit agency so that we can kind of check on our own folks and take care of our own folks and give them a break?

Mr. BROWN. The history of the bureaus is that they started as nonprofit associations.

Ms. GARCIA OF TEXAS. So they did?

Mr. BROWN. Yes.

Ms. GARCIA OF TEXAS. So when did things get changed?

Mr. BROWN. The evolution of the bureaus is sort of fascinating and tied to the history of credit in the United States. There's a great book, "Financing the American Dream," by a professor at the University of Georgia, Lendol Calder, that walks through it.

But the short story is that it shifted from retailers to chartered financial institutions really over the middle part of the last century, and the bureaus as we know them today really developed in the late 1960s through the mid 1980s.

Ms. GARCIA OF TEXAS. Interesting.

Well, could I finish—so do you think we could just do that again and just start with a white piece of paper and—

Ms. WU. The problem is that lenders would have to accept that data, and right now, we can't even get them to accept FICO 9, which reduces the impact of medical debt.

Ms. GARCIA OF TEXAS. But our credit unions would, and how many millions of Americans go to credit unions and not banks anymore?

Chairwoman WATERS. The gentlelady's time has expired.

Ms. GARCIA OF TEXAS. Yes, ma'am. Thank you.

Chairwoman WATERS. Thank you so very much.

Without objection, the statements and letters from the following organizations are entered into the record: Americans for Financial Reform and the 82 other consumer civil rights, labor, and community organizations that joined their letter; Consumer Reports; Public Citizen; and the National Association of Consumer Advocates.

I would like to thank our witnesses from this, our second panel, for their testimony today. And I am especially honored and pleased to have and hear the comments of support for our Comprehensive Consumer Credit Reporting Reform Act of 2019 and our Protecting Innocent Consumers Affected by a Shutdown Act.

The Chair notes that some Members may have additional questions for these witnesses, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

I ask our witnesses to please respond as promptly as you are able.

And with that, this hearing is adjourned.

[Whereupon, at 4:33 p.m., the hearing was adjourned.]

A P P E N D I X

February 26, 2019

Written Testimony of Mark Begor
Chief Executive Officer of Equifax Inc.
Committee on Financial Services
U.S. House of Representatives
February 26, 2019

Chairwoman Waters, Ranking Member McHenry, and distinguished members of the Committee, thank you for the opportunity to be here today. I am Mark Begor, Chief Executive Officer of Equifax, a role that I accepted in April 2018 after 37 years in senior leadership roles at General Electric and Warburg Pincus. While I was not a part of the Equifax team when the cybersecurity incident occurred in 2017, I certainly recognize the disruption and impact that the cyberattack caused for consumers and our customers — and I deeply regret what happened. I also understand that our regulators and lawmakers undoubtedly felt, and continue to feel, a strong duty to ensure that the financial ecosystem is functioning in a way that benefits consumers, safeguards their personal data and is fueled by accurate and complete information.

At Equifax, we too share that sense of obligation. Credit reporting agencies like Equifax are trusted to protect the personal data we hold, to provide accurate information to financial institutions making important risk decisions and to facilitate greater access to credit for consumers. I am committed to making improvements to our processes so that consumers have a seamless and positive experience when they are facing some of life's pivotal moments — such as applying for a mortgage, financing an education or buying a car. Under the Fair Credit Reporting Act (FCRA) and recently enacted S.2155, we are well positioned to meet and exceed consumer needs when they are standing at these critical junctures.

For example, last year in the U.S., Equifax delivered 2.3 billion consumer credit files – more than six million per day – to lenders. During this hearing today, we will help lenders with more than a half million transactions, including mortgages, auto loans, credit cards, apartment rentals and other consumer and commercial financial transactions. In 2018, mortgage lenders relied on our insights to help more than 11 million homebuyers secure a home mortgage or home equity loan. During that same period, our information helped more than nine million people finance their education. These examples are just a few of the ways that we, and our industry peers, play a critical role in the U.S. financial ecosystem.

I am pleased to share with you today some of the measures that Equifax is taking proactively to become a more consumer-focused bureau that continually prioritizes accuracy in its reporting. But first, I would like to give you an update on the comprehensive actions we have taken in the 18 months following the 2017 cybersecurity incident to transform a number of aspects of our business.

We are committed to building a culture within Equifax where security is a part of our DNA, and I have made a personal commitment that we will become an industry leader in data

security. The foundation of any true change must start at the most senior levels of an organization, and I am proud of the leadership and cultural enhancements that Equifax has made.

We've had a meaningful refreshment of our Board of Directors, with four new directors (including me) joining the board since the announcement of the 2017 incident. The Board is regularly updated by our Chief Information Security Officer (CISO) about cybersecurity matters and our security transformation progress. Equifax has a mindset that everyone at the company must have an understanding of and appreciation for the role they play in keeping our environment secure — and the Board is no exception. In fact, our CISO has developed a Board Cyber Audit Framework that consists of a set of programmatic and operational metrics so that directors can better understand where the company stands with respect to cybersecurity and so that any issues that arise are treated with the proper urgency. Equifax intends eventually to share this framework with other companies as a tool to leverage with their own boards to increase awareness about important cyber topics that boards and management teams regularly face.

Last year, we made senior-level appointments on my leadership team to help round out our strong security, data governance, IT and risk management teams. As already noted, I joined Equifax in April of last year. I have a deep understanding of the financial system and the importance of credit reporting agencies to that system, having served as CEO of GE's retail credit card business as well as a Director of FICO. Additionally, we hired seasoned security expert and former The Home Depot CISO, Jamil Farshchi, to lead our security program, reporting directly to me. We also appointed Bryson Koehler, the former Chief Technology Officer at IBM Watson and Cloud Platform, as our new Chief Technology Officer. We have made other significant additions to our team, including Nick Oldham as Chief Privacy and Data Governance Officer and Kent Lindner to lead our Enterprise Risk and Compliance functions.

These leadership changes are helping drive accountability from the top down as we work to strengthen our holistic culture of security. But to truly transform into an industry leader, we must embed security into everything we do — from product development, to our merger and acquisition strategies, to our incentive compensation plans. To that end, we have implemented a company-wide security goal in our annual bonus plan for every eligible employee across the company. This sort of 'shared-fate' mindset reinforces accountability and properly incentivizes our workforce — regardless of role or department — so that security is viewed as a responsibility not only of the security team, but also of the entire company.

Another component of our culture change includes a concerted effort to attract and cultivate the best and brightest cybersecurity talent because, ultimately, our success or failure hinges on our people. In 2018, we added nearly 1,000 full-time IT and security professionals to our workforce. We sought highly-specialized, technical talent that will help Equifax develop a world-class security organization.

We recognize that part of being an industry leader in data security is being transparent about our learnings over the past 18 months and sharing the best practices that we are collecting as we work to implement change. Nearly every day we read about new data breaches in the media, impacting a wide-range of industries and companies. All security practitioners stand to benefit from information sharing and open dialogue. Therefore, in 2018 we established a number of meaningful partnerships that ultimately will raise the bar for the entire security community. We founded ATLAS, a public-private sector initiative aimed at sharing threat intelligence and thought leadership, and we were invited to join the World Economic Forum's Centre for Cybersecurity. We also joined the Better Identity Coalition and are taking a leadership role in policy discussions to reduce reliance on the Social Security number and to support a secure digital identity. We plan to continue this level of investment and participation in 2019 and beyond.

The last part of our plan to implement meaningful change in our organization includes the technical improvements we are making to strengthen the maturity of Equifax's security program. We dramatically increased our technology spending by $1.25 billion between 2018-2020 and will spend approximately $1 billion per year during this time frame to transform our technology and security to industry-leading capabilities.

In 2018, we built out core information security competencies, matured the program to address current and future environmental changes, and began to regain consumer and customer trust. Among our most important achievements were the following:

- Implemented a 24 x 7 x 365 follow-the-sun Security Operations Center, enabling Equifax to better respond to cyber incidents in real time and in many cases with local resources.
- Established a data discovery program and deleted unnecessary data and records, reducing the footprint of high-risk systems.
- Reinstated the majority of compliance certifications that were suspended as a result of the cybersecurity incident.
- Deployed updated identity and access management controls with enhanced security being applied to thousands of privileged, administrative and service accounts and restricted administrative privileges on hundreds of endpoints.
- Completed penetration testing of hundreds of externally-facing applications – those with the highest propensity for being attacked.
- Increased code security scanning, with each code scan representing an opportunity for developers to identify and remediate security flaws prior to moving their code into production.
- Created technical assurance measures to validate control effectiveness.

Heading into 2019, our technical project portfolio looks to further increase maturity by executing against key security considerations such as controls assurance, acquisition integration and cloud services. We look forward to keeping you up to date on our progress and will continue to be transparent about our lessons learned.

In the remainder of this testimony, I will discuss some of the changes we have made to become a more consumer-friendly bureau. I also will discuss the investments we will continue to make to create an enhanced consumer experience that leverages the most accurate data possible.

As you well know, consumers are at the core of what we do, and Equifax strives to help people achieve their financial goals. We do this in a number of ways and support efforts to build financial well-being and financial inclusion for individuals, families and small businesses all around the world. I would like to give you just one example. In Atlanta where we are headquartered, we have invested to support the On the Rise Financial Center, which collaborates with local credit unions to provide counseling and financial coaching. On the Rise Financial Center helps consumers increase credit scores, reduce and manage debt, and increase savings.

Ms. SrLis Powell of Atlanta received services and education at the On the Rise Financial Center that improved her personal financial situation by helping her understand the significance of maintaining good credit and recognize signs of potential fraud. This guidance helped her take charge of her financial well-being, establish a checking account after more than six years of using prepaid cards with fees, open and contribute to a savings account, manage a personal budget, and learn about effective savings techniques when shopping. We are honored to partner with our community to assist consumers like Ms. Powell, and we bring that spirit into our business operations.

While we have been able to assist many consumers through partnerships like On the Rise Financial Center, we also recognize that millions of American consumers do not have ready access to affordable credit. According to research conducted by the Consumer Financial Protection Bureau and supported by our own analysis, approximately 26 million American consumers are credit invisible and an additional 19 million consumers are not able to be scored because of a lack of data or lack of recently reported information. When consumers who fall within these categories need credit, they often are forced to resort to high cost, predatory loans that lack important consumer protections. By having credit histories within our credit bureau files, consumers have access to more affordable credit through loans that are regulated by federal and state laws.

In addition to our traditional credit data, we manage a database on behalf of a consortium of telecommunications, cable and utilities companies that includes payment information on over 30 million consumers who either are not found in our traditional credit files or do not have sufficient information to be scored. We estimate that the data provided by this consortium could enable nearly eight million consumers to enter the regulated credit market.

We also continue to be proactive in anticipating and addressing consumers' needs during times of crisis and hardship. Following Hurricane Michael in October 2018, we provided consumers with educational content and information they needed following a natural disaster. And just recently, on February 1, 2019, Equifax responded to help consumers impacted by the federal government shutdown by offering them a free credit report service. We understand the

financial stress experienced by federal employees, contractors, their families and communities during the shutdown, and we hope this service helps those affected to monitor their credit reports and ensure that their reports accurately reflect the agreements they reached with their lenders and others with whom they have financial relationships.

We will remain committed to providing consumer education and support in times of crisis, and we also understand the need for more services that help consumers protect their identities and monitor activity on their credit files. Since the 2017 cybersecurity incident, Equifax has invested more than $80 million on services to assist impacted consumers. At the time that we announced the incident, we offered our TrustedID Premier service, an identity theft protection and credit file monitoring service, for free to all American consumers — regardless of whether they were affected by the incident. TrustedID Premier included three bureau credit file monitoring, identity theft insurance, internet scanning for Social Security numbers, the ability to lock and unlock Equifax credit reports and copies of Equifax credit reports. In November 2018 when that service was nearing its conclusion, Equifax voluntarily decided to extend the protection for another year.

Equifax also has taken an industry-leading role to give consumers more control over personal credit data. In January 2018, Equifax launched the Lock & Alert™ service to allow consumers to quickly lock and unlock their Equifax credit reports for free, for life, using a simple mobile application that we developed. We also enriched consumer education available through the Equifax website with timely blog postings, video content, frequently asked questions and other related information to help consumers.

Additionally, following the 2017 incident, Equifax provided U.S. consumers the ability to freeze and unfreeze their Equifax credit files for free, and, in September 2018, we successfully implemented the national security freeze requirements included in S.2155, the "Economic Growth, Regulatory Relief, and Consumer Protection Act."

At the same time, Equifax took an extra step and unveiled a new online consumer enrollment center called myEquifax™ to make it easier and more convenient for consumers to manage their credit information online. To date, more than 600,000 consumers have taken advantage of myEquifax to more easily manage their security freezes or fraud alerts. Our roadmap for myEquifax includes significant additional investments to help consumers process and manage disputes on their credit reports, including sending proactive alerts to consumers on the progress of their disputes. This new service will help give consumers transparency and peace of mind that their disputes are being handled promptly and with urgency.

Additionally, we are making improvements in our call centers designed to better serve consumers. The changes we have made to date include expanded call center hours, improved phone systems, reduced time to answer our phones and an improved way in which we greet consumers on the phone. We are investing over $50 million in our consumer-facing portals and service centers to enhance our consumer experience. Our continued focus is ensuring that we are consumer friendly at every touchpoint.

We also are continuing to work every day to deliver the most accurate data possible. In general, the credit reporting industry has a strong track record of accuracy when it comes to consumer reports; however, despite our best efforts, errors still occur, which result in consumer complaints or media publicity.

But these complaints and publicity do not mean that the current system is broken. Because of the foresight and diligence of Congress, we currently operate under a clearly defined and robust regulatory structure established by the FCRA, with continuous, active oversight by the Consumer Financial Protection Bureau and the Federal Trade Commission. Under the FCRA, consumer reporting agencies, as well as data furnishers and users of consumer reports such as banks and other companies, must meet stringent requirements around accuracy, fairness and privacy of information. We are required to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual to whom a report relates. Further, if a consumer disputes the accuracy of any information in his or her file, we are required to conduct a reasonable reinvestigation.

Inherent in the financial ecosystem is a shared interest of credit bureaus, lenders, consumers and data furnishers in maintaining accuracy of credit data. Therefore, we all continuously endeavor to eliminate errors. Let me be clear: any error on a consumer's credit report is one error too many. And I understand how frustrating it can be for a consumer to be on the cusp of an exciting financial event only to discover a problem with his or her credit report and to feel helpless in engaging with Equifax. When I hear these stories, it strengthens my resolve to push this company further.

Fortunately, millions of Americans have benefitted from the efficient structure of the FCRA. The system in place holds credit reporting agencies accountable for promptly investigating any disputes or inaccuracies and also expects that lenders provide credit reporting agencies with complete and accurate information. Above all, it recognizes the importance of comprehensive information on a credit file – including both positive and negative data — to all parties. Without comprehensive information that clearly depicts both good credit behavior and instances where debt obligations have not been fulfilled, all borrowers are rendered essentially the same — forcing lenders to raise interest rates.

In addition to focusing on removing inaccurate data that is furnished to us, we also are pioneering new technology such as our NeuroDecision® Technology. We believe this innovative solution is the first machine-learning credit scoring methodology that has been reviewed by federal regulators and credit scoring experts. NeuroDecision Technology develops an explainable neural network model that improves score performance and accuracy, which gives lenders the ability to make more informed risk decisions. Ultimately, we expect that this technology will help more consumers gain access to credit while holding default rates steady.

The bottom line is that consumers trust and expect that their credit reports contain the most accurate and complete data possible, and lenders rely on that information to help millions of

consumers obtain the right loans at the right time. Equifax recognizes the important role that credit reporting agencies play in ensuring that the process of extending credit is seamless and streamlined, and we take that role seriously.

To close, I would like to thank you for holding this hearing. Equifax is committed to working collaboratively with the Committee to ensure that we will continue to fulfill our duties and obligations under the existing legal framework to help consumers manage their financial affairs accurately and with excellent customer service. I have been clear since I joined Equifax last April that we are committed to being an industry leader in security and to becoming more consumer-friendly. We are investing unprecedented amounts in technology and security, as well as enhancing our processes to make it easier for consumers to manage their credit reports. And as you have heard, we are bringing the best resources and people to Equifax.

While we still have more work to do, please know that we remain open to sharing best practices with our peers and partners and to collaborating with you to ensure that the millions of consumers who need credit to power their financial dreams are treated fairly and with respect and that they have a consistently positive experience with Equifax.

Thank you again for the opportunity to provide this testimony and for your dedication to your constituents and American consumers.

FINAL OPENING STATEMENT

Chairwoman Waters, Ranking Member McHenry and Members of the Committee. I am Craig Boundy, CEO of Experian North America, and I thank you for inviting me here today. I appreciate the opportunity to discuss Experian's important work, our efforts to make consumers a central focus of our business, and how we are investing to improve the credit reporting system.

Let me begin by stating why credit bureaus exist, and how consumers benefit. Credit bureaus accurately compile individuals' payment histories from creditors so that lenders can use this data to make better lending risk decisions. Good lending decisions for credit cards, autos and mortgages mean fewer defaults. Fewer defaults mean lower costs of credit for consumers and greater availability of consumer credit across the economy. Credit bureaus help stabilize the safety and soundness of the nation's consumer lending sector.

What we hear most often from consumers, Members of Congress and regulators is that everyone wants us to focus on three clear objectives: Ensure the information we hold on consumers is secure; Make credit reports accurate; And manage a data dispute system that is easy for consumers to use.

Experian has clearly heard and responded to this call, and significantly shifted its focus to the consumer.

The number one priority at Experian is keeping consumer information safe and secure. We began increasing our investments in data security well before the Equifax breach and we continue to do so. Experian is committed to achieving the highest possible levels of data security and integrity and will continue to work, on our own initiative and with our regulators, to find opportunities for improvement. We support enactment of a federal data security standard and breach notification law, and have supported such since 2005.

Experian also supports the Committee's goal of helping underserved consumers. Many consumers may not have a mortgage or credit cards, but they do make rent, telephone and utility payments. Experian recently announced an opportunity for consumers to include certain information from their bank accounts onto a credit report. This free program, called Experian Boost, allows consumers to opt-in to sharing utility and telephone payment information directly to their credit files and

improve their credit score, including their FICO score. A consumer can grant permission to contribute information from their banking accounts, including the length of time accounts have been open and frequency of activity. This is particularly helpful to consumers who are new to credit or have had financial challenges.

We want to work with the Committee to find more ways to expand financial inclusion.

Experian also supports this committee's goal of enhancing the accuracy of credit reports. We believe the best way to achieve and maintain improvements on behalf of consumers is through a robust and continuously supervised examination program administered by the Consumer Financial Protection Bureau. This program should continue to focus on ongoing improvements by both credit bureaus and lenders, as well as other entities that furnish information to credit bureaus or use information from credit bureaus.

We are equally focused on data accuracy. Our goal is to reach as close to 100% accuracy as is possible. We have invested heavily to move closer to achieving that goal. Our data quality team of more than one hundred people manage a rigorous process of vetting data sent to us by lenders. We apply more than 400 data error checks on each record submitted by a lender and summarize a report back to the lender each month. If data provided to us by a lender does not meet our standards, we reject it.

An important component of accuracy is to make credit reports accessible for consumers to review and easily dispute data. In March of last year, Experian introduced a new online dispute portal, including a mobile-optimized version, to make it easier for consumers to submit disputes and to receive the results of those disputes.

I'd like to close by saying that Experian is proud of the improvements we have made. Our employees come to work every day wanting to help and empower consumers to create a better future for themselves. We are committed to the continuous improvement of our business for the benefit of consumers, lenders and the economy.

Thank you for inviting me to testify. I look forward to answering your questions.

Unscoreable: How The Credit Reporting Agencies Exclude Latinos, Younger Consumers, Low-Income Consumers, and Immigrants

Presented at

Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System

Submitted to

Committee on Financial Services

Submitted by

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INTRODUCTION

UnidosUS, formerly the National Council of La Raza, is the largest national Hispanic* civil rights and advocacy organization in the United States. For 50 years, we have worked to advance opportunities for low-and moderate-income Latino families so that they can achieve economic stability and build wealth. In this capacity, UnidosUS with its network of nearly 300 Affiliates—local, community-based organizations in 35 states, the District of Columbia, and Puerto Rico—provides education, health care, housing counseling, workforce development, and financial coaching programs to millions of citizens and immigrants in the United States annually.

UnidosUS's work with our network of community-based financial and housing counseling providers helps inform our understanding of Latinos' financial challenges and opportunities. The UnidosUS Wealth and Housing Alliance (UWHA) (formerly the National Homeownership Network, or NHN) is the nation's largest network of community-based organizations working to empower Latino wealth-building through homeownership. The UWHA develops effective programs that blend research, advocacy, and direct housing and financial counseling. The UWHA is a HUD-approved housing counseling intermediary and trains hundreds of housing counselors emphasizing individual, culturally competent counseling. Established in 1997, the UWHA includes 50 independent community-based organizations that support more than 60,000 families a year.

We are further informed of the credit needs of Latinos through our own small-dollar loan program. In 2016, UnidosUS developed a loan program to increase access to small-dollar lines of credit for Latino immigrants who needed assistance in paying for the costs associated with naturalization. Our program, Fuente Crédito ("credit source" in Spanish), helps community-based service providers connect underserved Latinos and immigrants to credit unions, community banks, and Community Development Financial Institutions (CDFIs), which offer safe and affordable loan products to build credit and finance small-dollar expenses. Several lenders that participate in Fuente Credito obtain credit scores from the big three traditional credit reporting agencies—Equifax, Experian, and TransUnion—in addition to alternative data bureaus, such as Clarity and LexisNexis, to help supplement credit history for Latino applicants who have a thin credit history or none at all.

For more than two decades, UnidoUS has published reports, testimony, and engaged in advocacy on issues that focus on supporting strong fair housing and fair lending laws, increased access to financial services for low-and moderate-income individuals, and has promoted homeownership in the Latino community. Additionally, UnidosUS has conducted its own original community-based research on the experiences of low-and moderate-income (LMI) communities of color in using financial services and products including: *Latino Financial Access and Inclusion in California* (2013), *Banking in Color: New Findings on Financial Access for Low- and Moderate-*

* The terms "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race.

Income Communities (2014), Small Dollars for Big Change (2017), and a forthcoming follow-up to *Banking in Color* with PolicyLink.

This written statement focuses on how the credit scoring system is biased against low-income consumers, consumers of color, younger consumers, and immigrants through information and stories from our Affiliates. It also focuses on how this bias excludes or extremely limits these same consumers from accessing credit, in addition to affecting their ability to obtain employment, rent an apartment, turn on their utilities, or access health insurance. In short, it discusses how the current credit scoring system affects almost every economic aspect of the lives of everyday Americans, especially Latinos.

BACKGROUND

> *"Credit bureaus are the original gangsters because they have their own system."*
> —55-year-old woman from Philadelphia, Pennsylvania

For most of modern history, there was no such thing as a credit score. Lending decisions were made by loan officers at banks who relied on experience and subjective assessments of credit risk, including the applicant's race or ethnic background.[1] For example, the Federal Housing Administration's first Chief Economist and the co-author of its first underwriting manual—Homer Hoyt—established a ranking system in 1933 that listed groups based on their perceived benefits or detrimental effects on property valuation and borrower risk. "English," "Germans," "Scotch," "Irish," and "Scandinavians" were the most beneficial groups, while "Negroes" and "Mexicans" were the most detrimental groups and were the riskiest to lenders and communities.[2] There were two major problems with this model of lending. First, it relied up on an individual loan officer's subjective judgment, and second, it was discriminatory.

Credit scores were first introduced in the United States during World War II, when banks lost their loan officers to the war effort. Standardized credit scorecards were then developed to provide bank employees with clear instructions on how to decide credit applications.[3] Credit scores were then developed into a statistical instrument by Bill Fair and Earl Issac, who founded Fair, Issac, and Company (FICO) in 1956. Credit scoring was not adopted on a large scale by the financial services industry until after the passage of the Equal Credit Opportunity Act of 1974 (ECOA).[4] In implementing ECOA, the Federal Reserve stipulated that lenders who used empirically derived, demonstrably and statistically sound credit scores to make loan decisions would be immune to discrimination suits.[5] The three national credit reporting agencies (Equifax, Experian, and TransUnion) followed suit in 1989 and developed their own proprietary generic credit history scores [6]

The credit reporting agencies collect information about consumers from many sources and organize this information into reports that are sold to businesses to make decisions about consumers. These are proprietary products designed to make profits for their creators. Thus, the way that these scores are calculated are not public. Each credit scoring company uses their own formula—so an individual's score can vary from lender to lender. Additionally, the information

that is fed into these calculations is obtained from a variety of sources. Again, the sources used vary between companies. According to FICO, 35% of an individual's score is based on on-time payments, and the rest of the score is based on factors such as having a low balance on credit cards compared to the credit limit, how many years a consumer has had credit, and a "good mix" of credit including a mortgage.[7]

Even though these generic credit scoring systems are a vast improvement from the subjective assessments behind lending decisions made prior to 1974, they still reflect longstanding disparities in U.S. credit infrastructure. The incorporation of these disparities into credit scoring models results in communities of color, low-income individuals, young adults, and immigrants having disproportionally low credit scores, high rates of credit invisibility, or thin credit files.

This is especially true for Latinos. Today, Latinos number 58.9 million and compose 18% of the U.S. population. Yet, Latinos have had longstanding challenges connecting to mainstream financial institutions and obtaining credit, similar to other communities of color. As the youngest and fastest-growing segment of the nation's population, Latinos' economic opportunities will have a significant role in shaping the nation's economic future. Increased credit scores and credit visibility are important components of ensuring that Latinos can unlock these opportunities.

> *"I feel discriminated against because I don't have credit. Whenever I am trying to do anything it gets so frustrating and I feel that it affects many aspects of my life. One example is how the gas company and the power company need to check my credit history in order for me to receive their service. Since I don't have credit history, my only option was to give a down payment of $500. That's a lot of money. As a new renter I had to give the first and last month rent and give a down payment to have gas. It is too much for one person."*
> —Henry from California

CREDIT SCORES

> *"[A] high credit score opens the door; a low credit score, they take away the keys."*
> —A 55-year-old woman from Philadelphia, Pennsylvania

Credit scores are supposed to be an objective measure of an individual's creditworthiness—free from the racial and gender bias that has historically determined who can, and cannot, access credit and on what terms.* Yet, credit scores are still largely correlated with income and wealth,[8] exacerbating longstanding wealth disparities between different racial and ethnic groups, and perpetuating the racial wealth gap.[9]

A study by Experian in 2018 found that there was a correlation between an individual's income and their credit score. They found that higher-income consumers, on average, have higher credit

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*Under the Equal Credit Opportunity Act (ECOA), it is unlawful for a lender to discriminate against a credit applicant on a prohibited basis, including race; color; religion; sex; and national origin, in any aspect of a credit transaction.

scores. For example, the average FICO 8 score for individuals with an income of $15,000 or less was 652, while individuals with incomes in excess of $200,000 had an average score of 739.[10] Data from the Financial Clinic's Change Machine, a nonprofit organization that works with poor Americans to build financial security, shows that in 2017, individuals with an excellent credit score over 750 had an average asset balance of $15,559, while those with poor scores of lower than 650 had an average asset balance of $1,343.*

Numerous studies have shown that communities of color have lower credit scores than their White counterparts. A 2007 report by the Federal Reserve Board mandated by the Fair and Accurate Credit Transactions Act of 2003 (FACTA) found that the average credit score of Black Americans was approximately half of that of Whites, and the average credit score of Latinos was more than one-third less than Whites.[11] A 2010 study by the Woodstock Institute found that in predominantly Black ZIP codes in Illinois, more than 54.2% of the individuals had a credit score of less than 620, which are considered subprime. In ZIP codes that were primarily Latino, 31.4% of individuals had a credit score of less than 620, and only 47.3% had a credit score greater than 700, or prime. In predominantly White ZIP codes, 67.3% of residents had a credit score of 700 or greater and only 16.8% of individuals had a credit score of less than 620.[12] A 2012 study by the Consumer Financial Protection Bureau (CFPB) found that the median FICO score for consumers in majority-minority ZIP codes was in the 34th percentile, while ZIP codes with low minority populations was in the 52nd percentile.[13] The Urban Institute found that in 2013, only 41% of Latinos and 33% of Black consumers have a FICO score of 750 or higher, while more than 64% of Whites had a score of 750 or higher.[14]

> *"I have a job, and a bank account with direct deposit. My bank won't extend me credit. The financial system is not here for us . . . . I don't think they're here for any of us. I feel like they're here for the big people."*
> —A 31-year-old from San Diego, California

CREDIT INVISIBILITY

> *"My experience with not having credit has been bad and sad. When I went to the car dealership to try to purchase a new vehicle, I was denied a car loan because I don't have credit. I was not able to purchase the vehicle because my other option was to provide a big down payment and at the time I didn't have that kind of money. Since I don't have a Social Security Number, I have tried to build my credit by using my [Individual Taxpayer Identification Number] but not all lenders accept it or can't see the history of my activities. When I ask lenders why is it that not all lenders can see my activities, they don't know how to answer my question. I feel that my work and work history should be the factor that determines if I get a loan; if I have income coming in at the end of the day I will be able to make the loan payments."*

* These numbers are from the Financial Clinic's social enterprise software Change Machine. They represent figures for coaching customers in the system that reported credit scores and assets at their first meeting.

—Miguel from California

According to the Consumer Financial Protection Bureau (CFPB), 26 million American consumers or one-in-ten (11%) adults are credit "invisible."[15] Credit invisibility means that they do not have credit information that has been reported to the major credit repositories.[16] An additional 8.3% or 19 million American consumers have "unscoreable" credit files, meaning that they have a "thin" or insufficient credit files (approximately 9.9 million individuals) or they have "stale" credit files and lack any recent credit history (9.6 million individuals).[17] In total, approximately 45 million American consumers, or 19.3%, are credit invisible, have thin credit files, or lack a recent credit history.

Credit invisibility occurs most frequently in communities of color, in low-income neighborhoods, in younger populations, and among foreign-born communities. Black and Latino consumers are almost twice as likely to be credit invisible or have unscored credit records than Whites or Asians in the United States. For example, 30% of Black and Hispanic consumers are credit invisible or are unscoreable, compared to 17% of Whites.[18]

Consumers in low-income neighborhoods are disproportionally credit invisible and are also more likely to have unscorable credit files.[19] The CFPB found that almost 30% of consumers in low-income neighborhoods are credit invisible and an additional 15% have unscored records, while only 4% of adults in higher-income neighborhoods are credit invisible and 5% have unscored credit records.[20]

Younger consumers are more likely to be credit invisible, compared to older consumers. With few exceptions, children under the age of 18 generally do not have credit reports, and 64–67% of all consumers between 18 and 19 years of age are credit invisible. The CFPB found that while only 6% of White consumers between the ages of 25 and 29 are credit invisible, Latinos are more than twice as likely to be credit invisible at 15.5%, and Black Americans are almost twice as likely to be credit invisible at 11.1% in that same age range[21]

Foreign-born individuals and recent immigrants, who make up nearly 44.5 million individuals or 13.7% of the total U.S. population, including 13.2 million non-U.S. citizens with lawful permanent resident status, are often credit invisible. Recent immigrants, including refugees, asylum applicants, and newly arrived visa-holders are most likely credit invisible or have thin credit files. Additionally, immigrants who hold an Individual Taxpayer Identification Number (ITIN), face additional challenges in obtaining credit and are more often credit invisible or have thin credit files.

Among the factors that contribute to the prevalence of credit invisibility for these populations is that mainstream credit scoring models rely on formulas and algorithms that fail to consider cultural norms, such as a reluctance to accumulate debt, reliance on cash, credit history from other countries, or failure to account for other methods of making on-time payments—which keep these individuals out of the financial mainstream. Thus, communities of color, low-income

consumers, young consumers, and immigrants are left out or left behind by the credit scoring models.

> *"I have tried to build my credit with my ITIN but banks don't accept it. Since me and my family want to purchase a home one day, we have gone to several banks to get guidance, but our dreams have been shut down. The banks told us that since we don't have a Social Security Number, we will not be able to get a home loan."*
> —Amparo from California

CONSEQUENCES OF CREDIT INVISBILITY

Credit scores were originally intended to be used by lenders to assess whether to approve a consumer for credit. Today, however, credit scores or credit histories are used for many non-lending purposes. These purposes include applications for employment, housing, utility services, and even health insurance. This "mission creep" means that a group of for-profit companies, making decisions based on proprietary formulas, now have tremendous power over every person in the United States. These companies determine whether a person can obtain a job, put a roof over their head, stay warm in the winter or cool in the summer, or secure health care for individuals and their families.

Use of Credit Scores in Employment

10 states;* the District of Columbia; and the cities of Chicago, New York City, and Philadelphia have passed laws restricting the use of credit reports for employment purposes. Yet, the Society for Human Resources Management (SHRM) found that 47% of employers conduct credit checks on job applicants.[22] This practice is not limited to management positions or positions that require a security clearance. The think tank Demos found that employers required credit checks for jobs as diverse as maintenance work, telephone support, office assistants, delivery drivers, selling insurance, working as a home care aide, supervising a stockroom, and even serving frozen yogurt. They also found that some employers also conduct credit checks on existing employees when they are considering them for a promotion. In a survey they conducted in 2014, Demos found that one-in-ten survey respondents who were unemployed were informed that they would not be hired for a job due to information contained in their credit report, and one-in-seven job applicants with blemished credit histories were advised that they were not being hired because of their credit.[23]

Use of Credit Scores in Housing and Utilities

Landlords have at their disposal rental screening services offered by several hundred companies, which provide landlords with four types of rental information: residential history, criminal background checks, civil litigation (including eviction cases), and credit reports. Even landlords who do not use these services are likely to check the credit records of prospective renters and

* California, Colorado, Connecticut, Hawaii, Illinois, Maryland, Nevada, Oregon, Vermont and Washington.

use these credit records as a measure of the likelihood of renting to a "problem tenant." TransUnion offers their own tenant scoring based on an individual's credit records; Equifax sells additional information with credit reports to landlords as a package; while Experian has its own rental screening operation and claims to not only predict rental behavior, but also provides rental payment data as part of its report.[24] Credit reports and credit scores are also used as screeners for federally subsidized housing. The U.S. Department of Housing and Urban Development's (HUD) guidebook to owners and managers of housing units states that "the applicant should have a neutral or good record for a recommendation of admission" but also plainly states that "lack of a credit history will not have a bearing on eligibility."[25] The use of credit records can result in a denial of housing, higher deposit requirements, and higher rents charged for substandard properties. Additionally, paying more for housing can exacerbate the financial difficulties that many communities of color, low-income individuals, younger individuals, or immigrants face daily.

Many Americans have utility bills, including those for their power, water, phone, internet, and natural gas. Although utilities are not traditionally included on a credit report, they are still considered a credit account because they provide service in advance of payment. Individuals without a credit score or with a poor credit score when they attempt to establish an account with a utility company may be denied service, required to provide a co-applicant, or asked to provide a deposit to establish service.

Use of Credit Scores in Health Insurance

To purchase health insurance plans from the federally facilitated marketplace (FFM), individuals must undergo an identity verification process run by Experian to perform its electronic identity proofing function. Using Experian's database and the individual's credit history, Experian generates a series of questions that the consumer must answer correctly to verify his or her identity, including questions about an existing or previous credit line, mortgage, or personal loan. If a consumer does not answer the question correctly, or if Experian does not have enough credit history to generate questions, the consumer is not allowed to proceed with the online application process and they must then validate their identity with a property deed or title, or a driver's license by mail, delaying enrollment.[26] This process disproportionally impacts communities of color, low-income consumers, younger consumers, and immigrants, who are more likely to be credit invisible or have a thin or unverifiable credit file.

CONCLUSION

We hope this testimony provides the committee with information on the ways in which the current credit rating system has left entire populations—including communities of color, low-income individuals, younger individuals, and immigrants—underserved and adversely impacted by its structure. For Latinos, who represent 18% of the population, it is important that our credit rating system serve them in a fair and inclusive manner. If we continue to rely on credit bureaus as gatekeepers who determine access to housing, employment, and health coverage, in addition to making lending decisions, the credit rating system will need to reflect a more accurate and

transparent depiction of the credit-worthiness of these underserved populations. We look forward to further discussions on improving our credit system, and will be happy to respond to any questions raised by this testimony.

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Statement of

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before the

Committee on Financial Services

United States House of Representatives

Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System

Washington, D.C.

February 26, 2019

Chairman Waters, Ranking Member McHenry, and members of the Committee, thank you for inviting me to appear before you today to discuss the Fair Credit Reporting Act (the "FCRA"). With this written submission, I intend to (1) provide a brief sketch of the FCRA and identify what makes it such a confounding statute; (2) discuss briefly what appears to be working and not working in the industry that has grown up within its regulatory confines; (3) identify how the marketplace is innovating to solve some of the issues that exist within that industry; and (4) offer some thoughts about possible legislative reform.

It bears stating at the outset that the United States has a consumer credit economy that is the envy of the world. Indeed, a friend and former colleague once described the most visible aspect of the consumer credit economy—the credit card—as one of the great innovations of the 20th Century.[1] Consumer reporting agencies, often called bureaus, are an important pillar of the consumer credit industry. As members of the Committee are well aware, this industry rests on a set of laws that were developed, in most cases, beginning with a bipartisan process launched by President Johnson, and continued under President Nixon, in the late 1960s and early 1970s.

Neither the industry itself, nor the laws that regulate it, is perfect. For instance, millions of people and households in the United States struggle to obtain credit, and millions more struggle with the credit that they do obtain. Like other things that date back to roughly the middle third of the last decade—myself included—those laws are showing their age. The FCRA is, in my view, an excellent place to start.

[1] Timothy J. Muris, *Antitrust in a High-Tech World*, Wall Street Journal (Aug. 10, 2010).

A CRASH COURSE ON THE FCRA

The title of the statute, Fair Credit Reporting Act, seems simple. All four words that are used in the title are fairly common in the English language, and in ordinary use, they are easily understood. The legislation that they label is not easy to parse. As one judge has observed, "the statute is drafted in hyper-technical language and includes a sufficient number of internal cross-references to make even the most dedicated legal practitioner consider a change in career."[2]

Deciphering the statute requires understanding two key definitions, the definitions of "consumer reporting agency" and "consumer report." The FCRA defines "consumer reporting agency" as follows:

> any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practices of assembling or evaluating consumer credit information or other information on consumers **for the purpose of furnishing consumer reports to third parties**, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.[3]

The FCRA defines "credit report" to mean:

> any written, oral, or other **communication of any information by a consumer reporting agency** bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for—credit or insurance to be used primarily for personal, family, or household purposes; employment purposes; or any other purpose authorized under [15 U.S.C. § 1681b].[4]

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[2] *Burrell v. DFS Svcs. LLC*, 753 F. Supp. 2d. 438, 446 (D. N.J. 2010).
[3] 15 U.S.C. § 1681a(f).
[4] 15 U.S.C. § 1681a(d)(1).

The statute excludes from this definition any "report containing information solely as to transactions or experiences between the consumer and the person making the report."[5] Taken together, these definitions mean that the FCRA only covers information provided by a party without a relationship with a consumer to another party which is making an eligibility determination for credit, insurance, or employment.

For consumers, the FCRA provides specific rights regarding the content of the consumer's credit report. In particular when a consumer report user (i.e. a lender, insurer, or employer) makes an adverse decision, the FCRA requires the consumer report user to give consumers an adverse action notice that explains the basis for the adverse decision.[6] It also gives the consumer the right to ask the consumer reporting agency that provided a report to the consumer report user—typically the issuing consumer reporting agency—to provide the consumer with a copy of the credit report.[7] The operating premise of the FCRA—traceable back to the President Johnson and President Nixon era Consumer Protection Commission—is that consumers can review the contents of any reports, then correct any errors, and finally reapply for whatever they were denied whether it be a loan, insurance, or employment.[8]

Within its scope, the FCRA is comprehensive. It maps out the relationships between the users of credit reports, suppliers of credit reports, parties that provide information to the suppliers of credit reports, and the subjects of those reports (*i.e.*, consumers). But the reach of the FCRA ends there. It does not govern (1) eligibility determination models; (2) consumer

[5] 15 U.S.C. § 1681a(d)(2)(A)(i).
[6] 15 U.S.C. § 1681m(a).
[7] 15 U.S.C. § 1681g(a).
[8] Note that the Economic Growth, Regulatory Relief and Consumer Protection Act (P.L. 115–74) did recently enhance certain consumer protections under the FCRA including additional requirements for veterans and providing consumers with the right to place a security freeze on credit reports free of charge.

information used for underwriting decisions; and (3) consumer reporting companies' obligations to protect the consumer information they hold.

First, the FCRA does not govern the models that lenders, insurers, or employers use to make eligibility determinations. One implication of the FCRA not governing eligibility determinations is that "fairness" as sought by the FCRA does not mean "equitable." Rather, the FCRA leaves "fairness" in the sense of "equitable" to the Equal Credit Opportunity Act (the "ECOA"). Somewhat confusingly, the term "Fair Lending" as used in consumer protection circles does not refer to the FCRA at all. It refers to the ECOA.[9] Another implication of the FCRA not governing models for eligibility determinations is that credit reports that are provided to consumers under the FCRA do not have credit scores on them.

Next, the FCRA only governs information that is provided to lenders, insurers, or employers by third parties that do not have a direct relationship with the consumer.[10] Information received directly from the consumer, or parties that have a direct relationship with the consumer, are not included in the FCRA's definition of "credit reports," thus falling outside the scope of the FCRA. In practice, this means that much of the information used by lenders, insurers, or employers to make underwriting decisions is not governed by the FCRA.[11]

Finally, the obligations and consequences of privacy breaches suffered by consumer reporting agencies are not governed by the FCRA. While the FCRA is tasked with governing consumer reporting agencies, it does not impose obligations on them to protect the

[9] This may be the most confusing piece of the interaction between the FCRA and ECOA.
[10] 15 U.S.C. § 1681(d)–(f).
[11] Here is why the narrow definition of "credit report" in the FCRA is important to understand what the FCRA actually does. That the information about consumers that lenders, insurers, or employers use to make underwriting decisions falls outside the scope of the FCRA is by virtue of the unintuitive and narrow definition of "credit report" used by the FCRA. This is likely the second most confusing aspect of the FCRA.

information that they hold about consumers from unauthorized access nor does it govern obligations to provide consumers with notice in the event those records are accessed without authorization. The obligation to keep information protected arises, principally, from the Gramm-Leach-Bliley Act (the "GLBA").[12] Further, the obligation to provide consumers with notice in the event of an unauthorized access is dictated at the state level by various state breach notification statutes.[13]

GOOD NEWS BAD NEWS ON CONSUMER CREDIT INDUSTRY

The United States has one of the most well developed consumer credit industries in the world. Our consumer credit industry has a strong enough foundation to support $4.01 trillion in outstanding consumer credit—nearly 20% of our national GDP.[14]

This industry would not exist in anything resembling its current form without the consumer reporting agencies. They serve as the backbone for this industry, constantly collecting, synthesizing, and distributing all of the consumer records produced in the United States. According to the Federal Trade Commission ("FTC"), consumer reporting agencies maintain information on approximately 200 million consumers aggregated from roughly

[12] 113 Stat. 1338. Note that this is further complicated by the Dodd-Frank Act (124 Stat. 1376–2223) which created the Consumer Financial Protection Bureau (the "CFPB") and assigned that agency broad enforcement powers over a series of enumerated consumer laws, including the GLBA but preserved the Federal Trade Commission's role for GLBA's provisions concerning a financial institution's use and protection of nonpublic consumer information. 15 U.S.C. §§ 6802–09.
[13] *See e.g.*, Cal. Civ. Code § 1798.82.
[14] *See Consumer Credit Outstanding*, Federal Reserve Bank (Feb. 7, 2019) (available at https://www.federalreserve.gov/releases/g19/current/) (last visited on February 22, 2019).

30,000 data furnishers nationwide.[15] In any month, the consumer reporting agencies receive information on over 1.3 billion consumer credit accounts from furnishers.[16]

The consumer reporting agencies—particularly the three national agencies—do an impressive job of managing these records. According to the FTC, the national consumer reporting agencies maintain accurate consumer records for almost 150 million consumers in America.[17] To do so, they must accurately collect and synthesize over a billion pieces of new data every month.[18]

The consumer reporting agencies are not perfect. There is widespread recognition that consumer credit reports covering millions of American are not accurate, notwithstanding accuracy requirements built into the statutory framework.[19] Estimates of the number of reports that contain one potentially material error run as high as 26% of all consumers.[20] Given how important length is to the predictive power of a credit report, these errors almost certainly have a disproportionate affect on the traditionally disadvantaged, the young, and immigrants.[21] Errors in consumer reports are also a problem for the consumer credit industry. The use of a credit reports to create fake credit profiles of consumers—so-called synthetic

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[15] *Fifth Interim Federal Trade Commission Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, Federal Trade Commission, at 2 (Dec. 2012) (available at https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf) (last visited Feb. 22, 2019) ("2012 FTC Credit Accuracy Report").
[16], *Key Dimensions and Processes in the U.S. Credit Reporting System*, Consumer Financial Protection Bureau, at 3 (2012) (available at https://files.consumerfinance.gov/f/201212_cfpb_credit-reporting-white-paper.pdf) (last visited on Feb. 22, 2019) ("2012 CFPB Credit Reporting White Paper").
[17] *See* 2012 FTC Credit Accuracy Report, at 35 (finding a 26% error rate).
[18] 2012 FTC Credit Accuracy Report, at i.
[19] 15 U.S.C. § 1681e(b).
[20] *See e.g.*, Aaron Klein, *The Real Problem with Credit Reports is the Astounding Number of Errors*, Brookings Center on Regulation and Markets (Sept. 28, 2017) (available at https://www.brookings.edu/research/the-real-problem-with-credit-reports-is-the-astounding-number-of-errors/) (last viewed Feb. 22, 2019); 2012 Credit Accuracy Report; 2012 CFPB Credit Reporting White Paper, at 23.
[21] *See* Upstart Request for a No-Action Letter, at 1 (available at https://files.consumerfinance.gov/f/documents/201709_cfpb_upstart-no-action-letter-request.pdf) (last visited on Feb. 22, 2019).

identity fraud—has been a significant loss for lenders over the last few years. Synthetic identity fraud is estimated to have cost credit card issuers $800 million in 2017.[22]

In addition to inaccuracies, there is significant evidence of consumer frustration. Between October 1, 2017 and September 30, 2018, the Consumer Financial Protection Board (the "CFPB") received 329,000 consumer complaints; of these complaints, 37% were for problems with credit or consumer reporting—the largest segment by approximately 1.5 times.[23] Although the FCRA requires consumer reporting agencies to follow certain procedures to allow consumers to dispute issues on reports about them, the volume of complaints received by the CFPB indicates such mechanisms are not effective.[24] Finally, the Equifax breach of 2017 remains one of the most significant exposures of sensitive consumer information in history.

Taken together, all of these examples provide evidence that this industry is not completely healthy. And where an industry is as closely tied to the underlying regulatory framework as this one, this evidence provides support for some legislative action.

MARKET RESPONSE TO EXISTING CREDIT REPORTING INDUSTRY

There is evidence that the market is responding to at least some of the problems with the credit reporting industry. But these market solutions are, for the most part, coming from outside the industry directly regulated by the FCRA.

Lenders are building models to incorporate data not traditionally found on credit reports and not scored by the models built on that data. The clearest example, at least from

[22] *See* Matt Tatham, *Identity Theft Statistics*, Experian (March 15, 2018) (available at https://www.experian.com/blogs/ask-experian/identity-theft-statistics/) (last visited Feb. 22, 2019).
[23] *Semi-Annual Report of Bureau of Consumer Financial Protection*, Consumer Financial Protection Bureau, at 19 (2018) (available at https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_semi-annual-report-to-congress_fall-2018.pdf) (last visited Feb. 22, 2019).
[24] 15 U.S.C. § 1681i.

my perspective, is Upstart. Fortunately, the story behind the example is a matter of public record as it can be found in the request for No-Action Letter that Upstart sought and, ultimately, obtained from the CFPB. As that request explains, Upstart launched a lending platform in 2014 to serve a population of people who generally find it difficult to obtain credit—people with limited credit history.[25]

As the Upstart request explains, the challenge in serving people with a limited credit history arises from the fact that credit scores generated from shorter credit histories (sometimes called "thin files") are less predictive than credit scores generated from longer histories (or "thick files").[26] Credit history length correlates with the score: the longer the history, the higher the score on average; the short the history, the lower the score. This means that younger borrowers and immigrants tend to find it difficult to obtain credit on favorable terms. Even where they can obtain credit, they generally receive lower limits and pay higher prices.

Upstart set about to find a way to identify good credit risks in the population of people whose credit histories are too short to provide a good risk indicator. It developed a model that includes "both an examination of the borrower's financial indicators as well as his or her education and/or [work] experience."[27] As Upstart's application explains, through the use of these non-traditional variables, Upstart is able to offer loans with more favorable terms to

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[25] Upstart Request for a No-action Letter, at 1 (available at https://files.consumerfinance.gov/f/documents/201709_cfpb_upstart-no-action-letter-request.pdf) (last visited on Feb. 22, 2019).
[26] *Id.*, at 7.
[27] *Id.*, at 4.

many customers who would not otherwise qualify for credit or who would only be able to obtain credit on less favorable terms.[28]

Although Upstart is the only company to have sought and received a no-action letter from the CFPB, Upstart is not the only company trying to serve underserved and traditionally disadvantaged groups by using data not found on a credit report, others include

- Petal, which has introduced a credit card without fees that is available to anyone. As the company's website explains, "[m]illions of Americans [are not] able to access credit, simply because they [have not] had credit in the past. Millions more are trapped in confusing and expensive credit card debt that feels impossible to overcome."[29] Petal reviews a customer's full financial record to underwrite its product, not just the information that is captured on a credit report.[30]
- Oportun, which offers installment loans to "the estimated 100 million people in the United States who have little or no credit history or whose credit scores do not property reflect their credit worthiness." Opportun uses a proprietary underwriting model to identify consumers "who have an ability to pay back [their] loan[s]."[31]

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[28] *See id.*, at 8 (estimating that its model enables it to lower rates by 500–700 basis points compared to a traditional underwriting model and to expand the pool of people to whom it can offer a loan).
[29] https://www.petalcard.com/the-company (last visited on Feb. 22, 2019).
[30] *Id.*
[31] *Id.*

Companies are also tackling problems with the reports themselves.[32] As noted above, losses related to synthetic identity theft have grown rapidly of the past several years. Sentilink, a small startup, has built a tool that enables lenders to "detect and block synthetic identities, where the name, date of birth, and SSN don't correspond to a single real person."[33] Also, there is also concern in some quarters that consumer focus on boosting credit scores is "mucking with their relationship to the underlying credit risk."[34] To combat that risk, ZestFinance has built a cloud-based machine learning platform that enables it to increase the variables in underwriting models used by lenders in a range of industries, including the auto lending industry, by ten or even one-hundred times.[35]

KEY COMPONENTS FOR REFORM

Proposed legislative reform of the FCRA tends to focus on consumer frustration with errors on their reports. This is understandable. Consumers do not choose to have consumer reporting agencies collect information about them, and the content of the reports to lenders, insurers, employers, and others can meaningfully affect lives. When consumers find themselves frustrated by the inability to correct errors on their reports, they have little practical recourse other than to complain.[36] When those complaints do not lead to change, the

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[32] There has also been a fair amount of innovation outside of the U.S. Mines.io and Tala have both built very advanced platforms to provide loans to individuals in the developing world. *See* www.mines.io (last visited Feb. 24, 2019) and www.tala.co (last visited Feb. 24, 2019).
[33] https://sentilink.com/ (last visited on Feb. 22, 2019).
[34] Bruce Upbin, *Skeptics Say Algorithms Cannot Improve On The Art And Science Of Lending. We Beg To Differ* (Jan 11, 2019) (available at https://www.zestfinance.com/blog/skeptics-say-algorithms-cannot-improve-on-the-art-and-science-of-lending-we-beg-to-differ) (last visited Feb. 22, 2019).
[35] https://www.zestfinance.com/ (last visited on Feb. 22, 2019).
[36] *See generally*, Albert O. Hirschman, *Exit, Voice, and Loyalty* (1970).

next stop is Congress.[37] That issue merits attention, but in tackling the FCRA, Congress should also look for ways to encourage innovation in the space.

Crafting an effective response to consumer frustration with the inaccuracy of information on credit reports is tricky. First, the past—for good or ill—is often predictive of the future when it comes to the behavior of a given consumer. This means that derogatory information is valuable even if the consumer to whom that information relates would prefer that the information not be shared.[38] Second, all errors on reports are not created equal. Although some errors are material and inexcusable, many errors are immaterial, understandable, or both. Third, consumer reporting agencies are not the ultimate source of truth when it comes to the information reflect on a given report. Any information on a consumer report can ultimately be tracked back to a party that has direct relationship with the consumer who is the subject of the report.

Recognizing the complexity of the problem of dealing with inaccurate derogatory information, I have two concrete suggestions. I believe that consumers should have the ability to go to court to obtain injunctive relief to correct reports that relate to them. The discussion draft circulated by the Chairwoman includes such a provision.[39] I also believe that consumers should have the ability to more easily raise disputes with furnishers about derogatory information. In my view, the ideal regime would allow consumers to dispute information once and have the information updated on all reports. With the observation of Judge Debevoise in *Burrell* ringing in my ears, however, I think that the CFPB, not Congress,

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[37] *See* Chairwoman Maxine Waters, Remarks at the Center for American Progress (Jan. 16, 2019) (available at https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=401718) (last accessed Feb. 25, 2019) (highlighting the need to reform the credit reporting sector).

[38] Judith A. Ouellette & Wendy Wood, *Habit and Intention in Everyday Life: The Multiple Processes by Which Past Behavior Predicts Future Behavior*, Psychological Bulletin, Vol. 124, No. 1, pg. 60–62 (1998).

[39] Chairwoman Maxine Waters, *Discussion Draft to Amendment the FCRA to Improve the Consumer Reporting System, and for Other Purposes*, at Sec. 110 (Feb. 21, 2019).

should design the procedure that enables consumers to dispute information at the furnisher level. And I note that the SECURE Act assigned that task to the Bureau.[40]

Even assuming that some version of these reform efforts pass, this Committee should also recognize that improving the credit report accuracy will do little to help the approximately 40 million people in America with no existing or a very short credit file to obtain credit. The problem facing that universe of people is that credit reports—however accurate or inaccurate—are simply not that predictive of future behavior. The only solution to the problem of short or non-existence histories is more data. As I mentioned above, there is some hope. Many companies have recognized that there is a large market of Americans with little access to credit, and they have built solutions to meet that need.

But consumer permissioned access to data, particularly the cash flow information that appears to be particularly useful, falls in a legal twilight. The U.S. Department of the Treasury has concluded that consumers have an unambiguous right to provide third-parties with access to information about their accounts, including their core demand deposit accounts.[41] Nevertheless, none of the agencies that supervises and regulates firms providing financial services to consumers appears to be making any effort to require financial institutions to meet this obligation.[42] This includes the CFPB, which has explicit rule making authority in this area. Even passing the access issue, there are additional questions about whether and how the FCRA applies to such information if it is used to make a credit decision.

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[40] SECURE Act of 2017, S. 2144 (available at https://www.congress.gov/bill/115th-congress/senate-bill/1786/text?q=%7B%22search%22%3A%5B%22Fair+Credit+Reporting+Act%22%5D%7D&r=5&s=7) (last accessed Feb. 24, 2019).
[41] *Nonbank Financials, Fintech, and Innovation*, U.S. Department of the Treasury (July, 2018) (available at https://home.treasury.gov/sites/default/files/2018-08/A-Financial-System-that-Creates-Economic-Opportunities---Nonbank-Financials-Fintech-and-Innovation_0.pdf) (last accessed on Feb. 24, 2019).
[42] *Id.*

I think Congress should direct the CFPB and the prudential regulators to require financial institutions to live up to their obligation under 12 U.S.C. § 5533. I also believe that Congress should make clear that the use of information accessed via means that comply with 12 U.S.C. § 5533 does not fall within the scope of the FCRA. The first point is, I assume, uncontroversial. Laws drafted by Congress and duly enacted under the Constitution should be enforced.[43]

The second merits some discussion, though I believe it is equally straight forward and ties back to why the FCRA exists in the first place. Consumers do not explicitly authorize consumer reporting agencies to collect information about them or to report that information to entities making decisions about them. The FCRA was enacted to give consumers access to those reports when those reports were used as a basis for denying them access to credit, insurance, or employment. Where consumers explicitly provide permission to prospective lenders and others to access information about them and where they have a direct relationship with the entities that hold and provide that information, the concerns that motivated the enactment of the FCRA, thus, do not apply.[44] Assuming that financial institutions adhere to their obligations under 12 U.S.C. § 5533, consumers have equal access to the information that they provide to the entities using it, and they have the ability to revoke permission to use it whenever they see fit.

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[43] The Federalist No. 21 (Alexander Hamilton) (Jacob E. Cooke ed., 1961).

[44] *See The History, Purpose, and Function of The Fair Credit Reporting Act and Provisions Subject to the Expiring Preemption Provisions Specifically; The Growing Problem of Identity Theft; Affiliate Sharing Practices; Accuracy of Credit Report Information; Consumer Awareness and Understanding The Credit Granting Process and Addressing Measures to Enhance the Acts*, 108th Cong., Hrg. 108–579 (2003) (statement by Richard Shelby) (discussing the original purpose of the Fair Credit Reporting Act as regulating the vital function that consumer reporting agencies perform in supplying consumer information because of the grave responsibilities that consumer reporting agencies have with respect to fairness, impartiality, and respect for the consumer's right to privacy).

Congress should also grapple with problem that consumers face in policing and protecting their identity. Congress took some steps in that direction last year with the provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act directing the Social Security Administration to accept electronic signatures for purposes of authorizing the SSA to verify that the person presenting a social security number is the person to whom that number has been assigned.[45] Properly implemented, such a verification step could significantly reduce the problem of identity theft. But it may prove necessary to take additional steps, including eliminating social security numbers as a consumer identifier on consumer reports as was proposed by the Ranking Member during the last Congress.[46]

CONCLUSION

Our consumer lending industry is the envy of the developed world. Yet it rests on a dated regulatory foundation. Congress has the opportunity to make important changes in that foundation that are likely to expand opportunities for millions of Americans and reduce risks associated with the current system. I hope it takes advantage of this opportunity.

Thank you for inviting me to appear today. I am happy to answer any of the Committee's questions.

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[45] Public Law No. 115-174, Sec. 215 (2018).
[46] PROTECT Act of 2017, H.R. 4028 (available at https://www.congress.gov/bill/115th-congress/house-bill/4028/text) (last accessed February 25, 2019).

Testimony of
Edmund Mierzwinski

Senior Director, Federal Consumer Programs
U.S. Public Interest Research Group

At a Hearing On

Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System

Before the U.S. House of Representatives Committee on Financial Services

The Honorable Maxine Waters, Chairwoman

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26 Feb 2019

Chairwoman Waters, Mr. McHenry, members of the committee. My name is Edmund Mierzwinski, Senior Director for Federal Consumer Programs at the U.S. Public Interest Research Group, which serves as the federation of state PIRGs, which are member-based, non-profit, non-partisan research and advocacy organizations around the country.

1. Summary

Thank you for the opportunity to testify today on the important matter of Fair Credit Reporting Act (FCRA) reform. The law was passed in 1970 and has been amended over the years. It regulates the activities of consumer reporting agencies (CRAs), commonly called credit bureaus. What is a CRA, or credit bureau? We like one court's description of the behemoth Experian as a "company that traffics in the reputations of ordinary people."[1]

We have prepared a rough timeline of some major consumer reporting problems that have led to state or federal policymaker reforms and enforcement actions by the Federal Trade Commission or Consumer Financial Protection Bureau. The list also includes enforcement actions by state attorneys general and consumer protection attorneys, who each play a critical role in reining in the CRAs. The timeline is attached as an appendix to this report. We hope it is helpful and I can answer questions about any of its items.

I first testified before this committee[2] on credit reporting mistakes in 1989, at a time when several states and the Federal Trade Commission (FTC) were conducting investigations and negotiating consent decrees with several large consumer reporting agencies[3] due to a troubling pattern of consumer complaints over both their mistakes and their recalcitrance and failure to correct the mistakes after consumers exercised FCRA-mandated dispute rights.

That 1989 hearing was the first real effort by Congress to rein in the credit bureaus since passage of the original act in 1970. Since then, Congress has continually conducted oversight and, in response to industry's indifference to the problems it causes for consumers seeking financial or employment opportunity, has enacted significant reforms in 1996, 2003 and 2010.

[1] See https://caselaw.findlaw.com/us-9th-circuit/1209375.html

[2] House Banking Committee, Subcommittee on Consumer Affairs and Coinage, Hearings on Fair Credit Reporting, 13 Sept 1989. (After the Gramm-Leach-Bliley Act of 1999, the full committee's name was changed to Financial Services Committee.)

[3] "Credit bureau" is a widely used colloquial term for Consumer Reporting Agencies regulated under the Fair Credit Reporting Act (FCRA) 15 U.S.C. § 1681 *et seq.* The so-called Big 3 bureaus, Equifax (formerly Retail Credit Company), Experian (formerly TRW) and TransUnion now qualify as Nationwide Consumer Reporting Agencies (15 U.S.C. § 1681a(p)) and face greater responsibilities under the act. Many other firms, including specialty CRAs offering check cashing and bounced check databases, employment background checks, tenant screening, medical insurance and other services are regulated under the act's definitions. However, the Big 3 continue to grow, with their recent acquisitions of competitors: for example, Experian acquiring Clarity Services, Equifax buying DataX and TransUnion buying FactorTrust, all in the last few years. The 3 smaller firms fashion themselves as alternative databases operating in the subprime space.

States Lead the Way

Critically, each federal reform was preceded by major accomplishments at the state level. A key part of my message today is that continued state leadership in all areas – from climate change to credit reporting and privacy and digital rights more broadly– is critical to the advancement of this nation's policies to improve consumer welfare, health and safety and liberty.

Numerous states emulated California's pioneering auto emissions rules, protecting the environment for us and future generations. As you know, those state rules are currently under administrative threat. The pioneering 2018 California Consumer Privacy Act is now under attack in the Commerce committees of both houses by a phalanx of powerful corporate interests led by Google, Facebook, Amazon and the telco/cable ISPs. If they win preemption of state laws, consumers and citizens lose, forever.

The big CRAs were early advocates of eliminating the right of states to protect their citizens. If the credit bureaus and banks had succeeded **in 1992** in their brazen House effort to reverse the FCRA's longstanding standard that the FCRA serve as a floor of protection, not a ceiling, and at that time 27 years ago successfully preempted all state laws related to credit reporting, we would not have nationwide free credit reports, we would not have access to our credit scores, we would not have identity theft protections, we would not have data breach notices, and we would not have the free nationwide credit freezes finally enacted in 2018.[4] Congress only acts to protect consumers after a disaster (cue 2008 financial collapse) or after several states act first. Industry's goal is to take state innovators and consumer cops off the credit bureau beat.

In this testimony, in addition to detailing the need for consumer reporting reform, we call on Congress to ensure that Equifax finally pays a price for its massive 2017 data breach affecting over 148 million consumers.

Finally, we offer our strong support to the two draft bills from Chairwoman Waters and other members, which are before the committee today. The first, a new version of the Chairwoman's Comprehensive Consumer Credit Reporting Reform Act, is a response to the problems posed to all consumers by the failure of the consumer reporting system. That system is dominated by its Big 3 members – Experian, Equifax, and TransUnion -- as self-appointed gatekeepers to financial and employment opportunity. Their lack of innovation and propensity toward mistakes perpetuates injustices and denies opportunity to many, especially lower-income consumers and people of color. The second bill, the "Protecting Innocent Consumers Affected by a Shutdown Act," will force the CRAs to lend a hand to the restoration of the financial lives of the government employees and contractors harmed by the recent extended shutdown. Since 1989, I have observed the arrogant attitude of the CRAs. They've always claimed that mistakes, let alone credit problems, aren't their fault; they simply report what they are told. It is literally the Bart Simpson defense: "It's not my fault." They won't change unless you make them. Passage of these two bills will make them change.

[4] In 1992, after Congressional consumer champions could not remove an amendment inserted in committee at the behest of the banks and CRAs, preempting all state laws under the FCRA, consideration of the Consumer Credit Reporting Reform Act of 1991, HR3596, was ended by a "House motion to rise" requested by consumer groups. See https://www.congress.gov/bill/102nd-congress/house-bill/3596

2. This Story Is About Consumers, Who Are Products, Not Customers, of the CRAs

This story is not simply about three big CRAs (credit bureaus) named Equifax, Experian and Trans Union. It is also about numerous specialty credit bureaus and also about numerous emerging companies that don't know or don't want to admit their products are consumer credit reports regulated under the FCRA.

It is also about the responsibilities of the creditors that voluntarily "furnish" information to CRAs.[5] Why do they do this? The theory is simple. If more credit files are available about more consumers and contain more trade lines (accounts) about consumer history, then the consumer reporting database will be more valuable to users. Most of the creditor-furnishers of information to the CRAs are also customer-users of the CRAs. The business customers gain the benefit of a larger database; they also have responsibilities as users of credit reports.

Yet, mostly it is about the plight of **consumers** whose financial and other histories are the subjects of credit reports, which are bought and sold without our consent. **We are not their customers; we are their product.** Note that this has not stopped the CRAs from developing a lucrative, multi-billion dollar marketing channel of subscription-based credit monitoring and identity theft protection products designed to play to our fears of low credit scores or imposters stealing our name.[6]

In reality those credit scores are low because the CRAs haven't been forced to do a better job protecting our files from misuse or to keep them accurate or to respond to us properly when we dispute the mistakes. Imposters prevail because of flaws in the credit granting system and debacles such as the Equifax breach that make financial DNA freely available. Instead of carrying out their statutory duties, the CRAs have persisted in ignoring them while simultaneously aggressively hawking a variety of over-priced self-help products.

In 2017, the CFPB fined Equifax $2.5 million; Transunion $3 million and Experian $3 million over deceptive marketing of credit monitoring products by offering deceptively marketing "educational" credit scoring products, not the scores actually used by lenders to make decisions. The CFPB also ordered Transunion to pay $13.8 million and Equifax to pay $3.8 million in consumer refunds for using bait and switch trial subscriptions.[7] If these products had the actual

[5] Furnishers did not have any duties until 1996 amendments. Duties to provide complete and accurate information are solely enforceable by regulators; private enforcement is available only when furnishers are notified of reinvestigation disputes (See FCRA Section 623, 15 USC 1681s-2).
[6] This lucrative channel includes identity theft protection and subscription credit scoring products. "The private research firm IBISWorld estimated that the U.S. market for identity theft services was about $3 billion in 2015 and 2016." See page 5, "Identity Theft Protection Services," U.S. GAO, March 2017, available at https://www.gao.gov/assets/690/683842.pdf.
[7] These enforcement actions were carried out under the first confirmed CFPB director, Richard Cordray. News release, CFPB, "CFPB Orders TransUnion and Equifax to Pay for Deceiving Consumers in Marketing Credit Scores and Credit Products," 3 Jan 2017, see https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-transunion-and-equifax-pay-deceiving-consumers-marketing-credit-scores-and-credit-products/ and News Release, CFPB, "CFPB Fines Experian $3 Million for Deceiving Consumers in Marketing Credit Scores," 23 March 2017, see https://www.consumerfinance.gov/about-us/newsroom/cfpb-fines-experian-3-million-deceiving-consumers-marketing-credit-scores/

value affixed to the price ($19.99/month and up), they would be sold as stand-alone products that would jump off the shelves.

3. What triggered passage of the 1970 Fair Credit Reporting Act?

In 1968 Representative Clement Zablocki (WI) offered an unsuccessful amendment to regulate credit reporting during consideration of the original Truth In Lending Act. Hearings were then held by the Senate and House by Sen. William Proxmire (WI) and Rep. Leonor Sullivan (MO). The complaints that triggered Congressional interest focused on a variety of deprivations by credit bureaus but a key driver of the hearings was complaints about the Retail Credit Company's abusive investigations of consumers applying for insurance policies. The Fair Credit Reporting Act was enacted in 1970 and in 1975, Retail Credit Company changed its name to Equifax.

While the original act restricted the sale of reports to limited purposes, provided certain rights for consumers and imposed responsibilities on credit bureaus and credit report users (but not yet on voluntary "furnishers of information"), some consumer advocates withdrew support when the final law included an industry-supported amendment providing qualified immunity from state defamation laws.

Early Consolidation Led to Mistake Patterns and Lack of Compliance That Continue Today; Sloppy Practices Also Lead to Identity Theft

Following passage of the act and the acceleration of industrial computerization, local and state credit bureaus began a first major wave of consolidation that resulted in 5, then 3 national CRAs by the early 1990s. A series of early 1990s reports by U.S. PIRG, Consumer Union (now Consumer Reports) and certain non-aligned CRAs confirmed widespread complaints.[8] U.S. PIRG, through FOIA requests, found credit bureau complaints led all others to the FTC in the early 1990s.[9] The consolidation of databases written in different programming languages and

[8] James Williams of Consolidated Information Services, a New York area retail mortgage credit reporting agency, in 1991 analyzed 1500 reports from the three big bureaus and found errors in 43 percent of the files. It and other smaller resellers of consumer credit reports are regulated by the FCRA; they are also customers of the Big 3, which are also known as data repositories. Over time, the number of these resellers, which in the 1980s and 1990s had an important role in conducting manual underwriting (line-by-line human review of consumer credit reports) has dwindled and their business models have changed, under pressure from the CRAs. But they have produced at least one other study of accuracy. See, for example, Consumer Federation of America and the National Credit Reporting Association, "Credit Score Accuracy and Implications for Consumers," 17 Dec 2002, at https://consumerfed.org/pdfs/121702CFA_NCRA_Credit_Score_Report_Final.pdf. This detailed study of credit scores derived from over 500,000 consumer credit files also provides a useful history of other studies of credit reporting accuracy and a discussion of the migration of credit and, especially, mortgage decision-making from manual to automated underwriting.

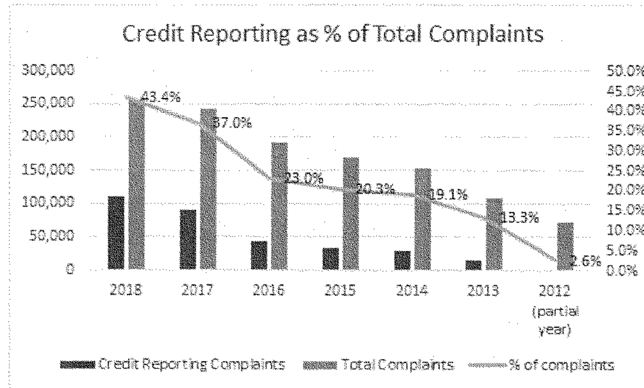
[9] See the following state PIRG reports: *Nightmare On Credit Street (Or How The Credit Bureau Ruined My Life): Case Studies Documenting Consumer Complaints and Recommendation For Amending the FCRA*, June 12, 1990; *Don't Call; Don't Write; We Don't Care*, 1991, which reviewed 156 consumer report complaints on file at the FTC and revealed that the average duration of complaints against a credit bureau was 22.5 weeks, or almost 6 months; and *Public Enemy #1 at the FTC*," October 1993. Based on a Freedom of Information Act request, the 1993 report found that between 1990 and 1993, problems with credit bureaus was the leading cause of complaints to the FTC (30,901, 20.6%). *Public Enemy* also found

non-standard reporting formats – along with lax enforcement of the law – certainly contributed to the problems identified by the FTC, state attorneys general, Congress and consumer groups.

The mistakes and problems we found in the early 1990s continued. In the mid-1990s, we documented the rise of identity theft, which left more consumers struggling with the credit report dispute process.[10] ID theft was fueled by the easy availability of Social Security Numbers and a security flaw in the credit granting process. An identity thief doesn't need to obtain your credit report (which requires you to verify a lot of identifying information, try it). The thief simply applied for credit in your name, with your SSN and his/her address. The retailer or creditor, a trusted third party to the CRAs, obtains your credit report and issues credit in your name, to the imposter using your SSN, at the imposter's address.

In 2013, the Federal Trade Commission found that 26% of consumers had at least one mistake that "might affect their credit scores" in one of their credit reports and 5% of all consumers had "errors on one of their three major credit reports that could lead to them paying more for products such as auto loans and insurance."[11]

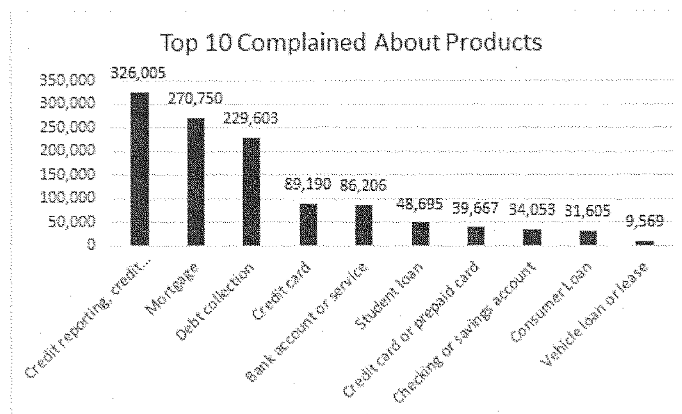
U.S. PIRG's regular reviews of the very important CFPB Public Consumer Complaint Database have most recently found the following, with 85% of all credit reporting complaints directed at Equifax, Experian and TransUnion:



that 44% of complaints concerned mixed files, and that among those, 64% involved the mixing of data with total strangers. We have published additional reports on consumer reporting errors, disputes and complaints in 1998, 2004 and 2014.

[10] See CALPIRG and U.S. PIRG, "Identity Theft: The Consumer X-Files," 1996, and "Identity Theft II: Return to the Consumer X-Files" and CALPIRG and the Privacy Rights Clearinghouse, "Nowhere to Turn: Stories from Identity Theft Victims," 2000.

[11] Federal Trade Commission, "In FTC Study, Five Percent of Consumers Had Errors on Their Credit Reports That Could Result in Less Favorable Terms for Loans," 11 Feb 2013, see https://www.ftc.gov/news-events/press-releases/2013/02/ftc-study-five-percent-consumers-had-errors-their-credit-reports



The public CFPB Consumer Complaint Database is a critical tool for consumers, academics and other researchers and even competitors to make consumer financial markets work better.[12] Efforts by special interest groups to kill it must be rejected.[13]

4. The Failures of the FTC To Bring the CRAs to Heel Over 40 Years

The Federal Trade Commission fought the credit bureaus with one hand tied behind its back from 1970-2010. The FTC had no or little rulemaking authority under the FCRA nor did it have supervisory or examination authority—the right to look inside the black box of CRA operations at any time to determine compliance and stop problems before the problems became worse.

Since 1970, we are only aware of one public civil penalty imposed by the FTC against the three CRAs for violating the FCRA. In 2000, in an action called Operational Busy Signal, the 3 were fined a total of $2.5 million for not having enough human staff to answer the complaint hotlines.[14] In 2007, under the FTC Act, not the FCRA, Experian subsidiaries were fined $300,000 for violating a consent decree issued in 2005 for deceptive marketing of its credit report monitoring subscription products.

[12] Since 2013, U.S. PIRG has released more than a dozen reports analyzing complaints in the database, on subjects including credit reports, and on categories of consumers, including the targeting of servicemembers by financial predators. See https://uspirg.org/page/usp/reports-cfpb-gets-results-consumers

[13] Our June 2018 report, "Shining A Light on Consumer Problems: The Case for Public Access to the CFPB Complaint Database," summarizes why the database must remain open. See https://uspirg.org/reports/usp/shining-light-consumer-problems

[14] In 2000, Experian and TransUnion were fined $1 Million and Equifax $500,000 for a total of $2,500,000 in the FTC's "Operation Busy Signal," for failing to comply withw a 1996 amendment to have adequate humans on hand to answer complaint calls.

Creation of the new Consumer Financial Protection Bureau, established by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, largely remedied these deficiencies. The CFPB was given full rulemaking over 19 different consumer laws, including the FCRA.[15] The CFPB also has other authorities that the FTC lacks, including the right to impose penalties at any time[16] and supervisory or examination authority[17]—the right to look inside the black box of covered firms at any time to determine compliance and stop problems before the problems became worse.

The CFPB has exercised robust research,[18] examination and supervisory authority over the consumer reporting markets.[19] Yet, in one curious exception, with relevance to the Equifax breach, authority over CRA data security was retained by the FTC in Section 1031 of the Dodd-Frank Act. Title V of the Gramm-Leach-Bliley Act of 1999 had given the FTC authority to write rules establishing data security responsibilities for non-bank financial firms, including CRAs. Its data security rule is known as the "Safeguards Rule."[20] While the CFPB is reportedly pursuing an Equifax investigation and likely can defend its data security actions under its other authorities, it makes sense to transfer GLBA Title V authority to the CFPB, as recommended by the National Consumer Law Center in recent testimony before the committee.[21]

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[15] The FTC retains joint authority over the FCRA, in addition, it retained a number of its own staff expert in the FCRA; annually the two agencies sign a Memorandum of Understanding concerning their shared FCRA duties.

[16] Although FTC can impose penalties for any violation of the FCRA or the Fair Debt Collection Practices Act, it can only impose civil penalties under either tits core authority under the FTC Act or its GLBA requirements after a firm is found to be in violation of an FTC-imposed consent decree.

[17] Congress gave the CFPB supervisory authority over banks > $10 Billion Dollars in asset size and over payday lenders, non-bank mortgage companies and private student lenders of any size. It also gave the Bureau, under Section 1024 of the Dodd-Frank Act, authority to write rules granting itself authority to supervise larger participants in other important financial markets. It has used the authority several times; notably, its first larger participant rule, in 2012, was over the consumer reporting markets. https://www.federalregister.gov/documents/2012/07/20/2012-17603/defining-larger-participants-of-the-consumer-reporting-market

[18] See "Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation's largest credit bureaus manage consumer data," December 2012, https://www.consumerfinance.gov/data-research/research-reports/key-dimensions-and-processes-in-the-u-s-credit-reporting-system/

[19] See "Supervisory Highlights: Consumer Reporting Special Edition," 2 March 2017 https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-consumer-reporting-special-edition/

[20] See https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/safeguards-rule

[21] See page 8, Testimony of Chi Chi Wu, National Consumer Law Center, House Financial Services Committee "Continuation of Hearing Examining the Equifax Breach," 25 October 2017, https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=400866

5. Equifax Showed Gross Indifference to its Responsibilities to Protect Consumer Information; Its Data Breach Response Made Things Worse

Several Congressional committees have held hearings and/or issued staff reports detailing the Equifax breach. U.S. PIRG's own September 2018 report, "Equifax Breach One Year Later," summarized the following major problems:[22]

Had Equifax not been so careless, the breach may never have happened. Four months before the hacking, Equifax could have fixed a known security vulnerability in the widely-available and used Apache Struts open-source platform. Innumerable warnings from government security agencies and private experts were not acted on.

As explained in our report, the company also botched its response by:

- Delaying public notification for at least six weeks
- Setting up an online search tool that provided faulty results to those who used it about whether they were affected by the breach
- Initially understaffing its call center
- Initially including arbitration language that forced consumers to sign away their rights to a day in court
- Directing consumers to a fake website
- Failing to provide consumers full protection from new account identity theft -- which it still hasn't done. (See Appendix A for a summary of Equifax's offerings to consumers in response to the breach and how they fall short of protecting consumers.)

Despite all the outrage and media attention last year, Congress has done little except make security freezes free, and even then, done so in a manner favorable to Equifax and the other CRAs, by preempting the right of states to enact stronger freeze protections going forward. Of course, the idea of the freeze didn't come from Congress, it came from 50 state freeze laws passed between 2003 and 2018. The idea of the free freeze also was jump-started by several free freeze amendments to existing state laws passed after the 2017 Equifax breach but before Congress passed S2155 in May 2018. That law created several minor consumer protections—but both the preemptive free freeze right and a military credit monitoring "right without a remedy" if monitoring was not provided were imperfect efforts. The comprehensive Waters CCRRA reform will cure both these problems. Congress should never preempt the states, especially at the behest of powerful special interests.

Also, critically important, Equifax has neither been held accountable nor paid a price for its breach. Further, this sensitive information, including Social Security numbers and birth dates, is still out there, with the potential to wreak havoc for the majority of consumers in perpetuity.

6. It Is Critical to Pass the Two Bills Before the Committee Today

Finally, we offer our strong support to the two discussion drafts from Chairwoman Waters and her co-sponsors before the committee today. The first, the Comprehensive Consumer Credit

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[22] Mike Litt, U.S. PIRG, "Equifax Breach: One Year Later: How to Protect Yourself Against ID Theft & Hold Equifax Accountable," 6 Sept 2018, available at https://uspirg.org/reports/usp/equifax-breach-one-year-later

Reporting Reform Act (CCRRA) of 2019, is a new version of the Chairwoman's longstanding effort to correct flaws in the consumer reporting system. It is a broad and thoughtful response to the problems posed to all consumers by the failure of the consumer reporting system, dominated by its Big 3 members as self-appointed gatekeepers to financial and employment opportunity. These firms have demonstrated for years that they lack the key incentives to do their jobs. Their failures perpetuate injustices that raise costs for nearly everyone and deny opportunity to many.

The second bill, the "Protecting Innocent Consumers Affected by a Shutdown Act," will force the CRAs to lend a hand to the restoration of the financial lives of the government employees and contractors harmed by the recent extended shutdown.

Since 1989, I have observed the bad attitude of the CRAs. They've always claimed that mistakes, let alone credit problems, aren't their fault; no, they claim "we simply report what we are told and if it is wrong, or negative, so what." They won't change unless you make them. The shutdown bill will make them take action to help people harmed through no fault of their own. The CCRRA addresses endemic problems in the consumer reporting system.

Title I of CCRRA: New Right of Appeal Critical to "Fixing the Dispute Process"

I will never forget the plea to the FTC by one of the consumers highlighted in U.S. PIRG's first report on credit bureau errors and failure to fix them. In 1990, the consumer asked: "It says "Item Remains, Confirmed By Source." What is this source!?"" A review of several narratives in the CFPB public consumer complaint database finds similar unanswered complaints from consumers continue today:

> "Experian states that the information remains...." [or] "Equifax completed the investigation yet this item still remains on my Equifax Credit Report...." [or] "According to TransUnion 's updated credit file on XX/XX/2017 (# XXXX), XXXX # XXXX ... .. should be removed XX/XX/2017. As of XX/XX/2017, this item remains...." [or] "their responsibility must consist of something more than merely parroting information received from other sources..." [or] "I have asked Experian to provide the name of the data furnisher or third party source who verified this information so that I can contact them directly. Experian refuses to provide this information..." [or] "I have disputed this account several times online and in writing with no resolution. This account still remains on my credit report..."

So, the dispute system, despite efforts in 1996 and 2003 to fix it, is still broken. Title I of the CCRRA makes significant improvements. Most notably, for the first time, it establishes a right to appeal disputes. Title I also includes new matching procedures and other requirements to prevent disputed information from being routinely reinserted into consumer reports. Until now, greater weight has been placed on the opinion of "the source" furnisher than the consumer and less weight has been placed on whether an actual reinvestigation ever occurred, or whether the furnisher and CRA computers simply agreed that they both contained the same data, even if it was wrong.

Title II of CCRRA Limits the Use of Consumer Reports for Most Employment Decisions

Several states, including California, Colorado, Maryland and Oregon, and cities such as Chicago and New York have restricted the use of consumer reports for employment decisions. Further, the industry has admitted in testimony that it cannot show a relationship between a consumer's credit report and job performance.

Further, should any consumer be denied employment opportunity in a difficult economy due to a disputed item, or even an actual late payment, on a credit card?[23] The problem is harshest on persons of color and lower income consumers with "thinner" credit reports. Historically, their credit opportunities have not been extended from the national firms that dominate the credit system. Should their job opportunities be similarly diminished by their credit reports?

Title III of CCRRA Improves Rights of Victims of Private Student Loan Borrowers

The title provides new protections for victims, including servicemembers and others, of unfair private student loan practices.

Title IV of CCRRA Makes a Variety of Changes to Rebalance the Reporting of Adverse Items

Credit scoring models prioritize the value of recent trade line information over much older information. Begrudgingly, under order by enforcement actions, the CRAs have also reduced the impact of non-predictive data, such as medical debt, and removed public records known to be full of misinformation. Yet, in general the CRAs have long resisted any changes to the types of information that they can collect or report or how long they can report it, even if it is now known to be non-predictive.

Title IV makes important changes to make reports more accurate and predictive. It shortens the reporting of certain bankruptcies from 10 to 7 years, eliminates reporting of certain public records and reduces the reporting of credit trade lines from 7 to 4 years, among other changes. It greatly reduces the impact of medical debt items, which are often mistaken due to bills that should be the responsibility of slow-pay insurance companies but are sent to collection under the consumer's name. Further, medical debt is the result of getting sick, or laid off, or losing insurance coverage, not due to a propensity toward "spending sprees." Both leading credit scoring models, FICO and VantageScore, a joint venture of the Big 3 CRAs, have already reduced or eliminated reliance on medical debt items.

Title IV also provides protection to victims of for-profit schools and other abusive practices.

Title V of CCRRA Establishes Oversight of Credit Scoring Models and the Use of Non-Traditional Data

Title V gives the Consumer Bureau clear authority to monitor and oversee the validity of credit scoring models to ensure that the often-opaque algorithms are accurate and predictive and do not

[23] See testimony of Chi Chi Wu, National Consumer Law Center, at a "Legislative Hearing on HR3149, the Equal Credit For All Act," Subcommittee on Financial Services and Consumer Credit, 23 Sept 2010, http://archives-financialservices.house.gov/Hearings/hearingDetails.aspx?NewsID=1355

introduce scoring factors that could violate the civil rights or fair lending laws. Further, Title V requires a Consumer Bureau study of the use of non-traditional data in consumer reporting. Alternative data is a shiny new toy you'll hear a lot about, but could have negative or unintended consequences, especially for some of the populations its proponents claim that it will assist.

Title VI of CCRRA Provides for Free Annual Credit Scores and Improves Requirements on Consumer Report User Firms to Promote Consumer Understanding of the Use of Reports and Scores

In the early 1990s the FTC proposed an interpretation that credit scores were, by definition, part of consumer credit reports that should be included in credit report disclosures[24] to consumers. Under an industry full-court press, it immediately reneged on this consumer-backed idea.

In 2000, following a joint campaign by realtors and consumer groups, California prohibited clauses in CRA contracts with users such as real estate agents that prevented them from showing credit scores to consumers. Since then, the veil over credit scores has gradually lifted. The CRAs have long-sought to monetize their disclosure, unfortunately also through deceptive marketing of "educational" scores, not the scores actually used by creditors.[25] It is past time to provide scores for free as part of the annual free report disclosure first required nationwide by the 2003 FACT Act. Section 604 of the CCRRA provides free credit scores in this and other circumstances.

Title VI also requires various users to provide consumers with additional information to improve their understanding of the consumer reporting system.

Title VII of CCRRA Bans Misleading and Unfair Consumer Reporting Practices

Even though we are not their customers, only their product, nothing has stopped the CRAs from developing a lucrative, multi-billion-dollar marketing channel of subscription-based consumer credit monitoring and identity theft protection products designed to play to our fears of low credit scores or imposters stealing our name.

Our credit scores are low because the CRAs haven't been forced to do a better job protecting our files from misuse or to keep them accurate or to respond to us properly when we dispute the mistakes. Instead of carrying out these statutory duties, the CRAs have persisted in aggressively hawking a variety of over-priced self-help products, often in an unfair or deceptive way.[26] Title

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[24] The FTC did not have any rulemaking authority under the FCRA until limited authorities were granted in the 2003 FACT Act. In previous years, its views were described in often-amended "FCRA Interpretations" and through staff opinion letters.

[25] The CFPB used director Richard Cordray's bully pulpit very effectively to nudge more banks and credit unions to greatly expand the availability of free credit scores. Its most recent list is available: Skyricki, Irene, "A new list identifies more ways to access credit scores—for free," CFPB, 16 May 2018, at https://www.consumerfinance.gov/about-us/blog/new-list-identifies-more-ways-access-credit-scores-free/

[26] For deceptive marketing of subscription products by CRAs, see news release, CFPB, "CFPB Orders TransUnion and Equifax to Pay for Deceiving Consumers in Marketing Credit Scores and Credit Products," 3 Jan 2017, at https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-transunion-and-equifax-pay-deceiving-consumers-marketing-credit-scores-and-credit-products/ and News Release, CFPB, "CFPB Fines Experian $3 Million for Deceiving Consumers in Marketing Credit Scores," 23

VII would provide a variety of new protections against unfair and deceptive marketing of these products. Low-value versions of these products are often provided free after a data breach but consumers face a barrage of online and televised ads extolling the supposed virtues of upgrading to a $19.99/month, or even higher-priced, products. Section 703 gives the Consumer Bureau authority to restrict the prices of the subscription products.

Title VII provides additional protections to consumers with limited English proficiency and mandates by law that shopping around, for example, for a good deal on a new car, is not treated in credit scores as multiple applications for credit with multiple "dings" to a credit score. Further Section 707 establishes, for the first time, national registration of national and specialty CRAs to make it easier for the Consumer Bureau, FTC and consumers to hold them accountable.

Highlights of Title VIII of CCRA, Which Provides Additional Consumer Protections

The CRAs have long-imposed barriers on consumers fighting identity theft. Section 801 makes clear that there are a variety of ways a consumer can file a lawful identity theft affidavit, even if their local police do not take identity theft complaints. Most don't.

Section 802 makes improvements to the rights of protected or incapacitated consumers.

Section 803 improves statutory fraud alert rights for both consumers and active duty military personnel.

Section 804 corrects a CRA-driven provision in 2018 amendments that established a free national credit freeze right, but preempted states from providing additional, stronger protections. Section 808 corrects a separate 2018 amendment that provided servicemembers with free credit monitoring, but did not give them a remedy if the services were not provided.[27]

Title IX makes certain other amendments to ensure that the CRAs and other firms act in the public interest and under the law and requires the Consumer Bureau to complete rulemaking under the CCRRA within two years of passage.

6. Conclusion

This testimony and the attached timeline make an effort to describe how consumer reporting agencies have no incentives to sell accurate credit reports, so they do not. We also concur with the detailed testimony of my consumer and civil rights colleagues on the panel today, as well as the statements for the record submitted by a number of other consumer and civil rights advocates.

To protect consumers and ensure that markets work fairly, a combination of strong federal laws enforced by strong federal agencies must be accompanied by the right of states to respond more quickly to new threats in the marketplace. Further, full enforcement rights by state Attorneys

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March 2017, at https://www.consumerfinance.gov/about-us/newsroom/cfpb-fines-experian-3-million-deceiving-consumers-marketing-credit-scores/

[27] The provisions were included in S2155, a deregulatory proposal which became law as the Economic Growth, Regulatory Relief, and Consumer Protection Act (Public Law 115–174).

General and local officials and strong private rights of action so that consumer protection attorneys can act as private attorneys general are also needed. The message is clear. Congress cannot solve every problem. Federal agencies cannot go it alone.

Going forward, we also look forward to working with the committee on newer and emerging problems of consumer protection, privacy and digital rights in the financial marketplace. For example, a large class of nearly unregulated data brokers sells products that are virtually identical to consumer credit reports, but not sold for "credit, insurance or employment purposes," so remain outside the protections of the FCRA. So-called lead generators sell lists of consumers, including to predatory lenders, derived from tracking their Internet activities. Pre-approved marketing decisions are being made, in real time, based on unregulated "e-scores" and look-alike consumers. Since the reports are not about a particular consumer, the firms contend their products are not regulated consumer reports.

As we point out on our "Digital Data and Consumer Protection Page:[28]"

> "American consumers face new challenges and opportunities to their financial security as our economy is transformed by the convergence of digital media with "Big Data" technologies. Our use of mobile phones, social media, "apps," and other online tools have created new ways for us to spend, save and borrow money. Powerful forces are at work, however, that can undermine a consumer's ability to make the best choices and may place those already financially at risk even more vulnerable. The digital data-driven economy continually gathers vast amounts of information on individuals, online and offline, which is used to create a "profile" about our spending habits, behavior and our geo-location. These profiles can be "scored"—an invisible measure known only to the marketer and data brokers—that can determine whether we are offered high interest credit cards, payday and for-profit college loans and even what we may pay at retail and grocery stores. The uses of the information can be positive or, absent any regulation or meaningful protections, lead to discrimination, price manipulation or denied opportunity."

Thank you again for the opportunity to provide our views to the committee today. I look forward to your questions.

Appendix: Timeline of Significant Credit Reporting Events and Policymaker Responses

[28] See https://uspirgedfund.org/issues/usf/digital-data-and-consumer-protection-ensuring-fair-and-equitable-financial-marketplace

QUICK TIMELINE OF SELECTED CREDIT BUREAU (or CRA) EVENTS 1960s-TODAY

Date	Problem/Policy	What Was the Problem; What was Response?
Late '60s	**CRA Problem**	Complaints grow about Retail Credit Corporation (now Equifax) insurance consumer report scandal
1970	Federal Response	**Congress holds hearings on scandal; enacts Fair Credit Reporting Act to regulate companies selling consumer reports (called credit bureaus or CRAs)**
1980s	**CRA Problem**	First wave of consolidation of local/regional credit bureaus results in increase in errors in consumer credit reports
80s-early '90s	Both State/Federal Response	Responding to errors, investigations by state attorneys general and FTC result in CRAs brought under consent decrees, no fines
		-- TRW (now Experian) signs multi-state and FTC consent order in 1991
		-- Equifax signs consent orders with states (1992) and FTC (1996)
		-- Trans Union signs consent orders with states in 1992 and FTC in 1994
1989	Federal Response	House Banking Committee (now FSC) holds first hearings in years on credit bureau errors
1991	**CRA Problem**	TRW (now Experian) incorrectly reports all citizens (3,000) of Norwich, VT area had failed to pay their taxes.
1992 - today	**CRA Problem**	By early 1990s, consolidations result in powerful gatekeeper "Big 3" national CRAs which now continue to acquire specialty competitors
1992	**CRA Problem**	**Sponsors remove FCRA reform, HR3596, from floor action due to sweeping preemption provision demanded by banks/credit bureaus**
Early 1990s	CRA Problem & Bad Policy Response	Use of non-transparent credit scores grows, FTC proposes FCRA interpretation that scores are part of credit reports; under industry pressure, reverses itself.
1992-1996	State Response	**States led by Vermont and California enact comprehensive credit report reforms; 7 states provide annual free credit reports (VT, then CO, GA, MA, ME, MD, and NJ)**
1994-today	**CRA Problem**	Rise of instant credit, easy availability of SSNs, other financial DNA, fuel rise of identity theft
1995-present	**CRA Problem**	**Instead of improving compliance, CRAs respond to threat of errors/identity thieves by intensifying scare marketing of credit monitoring add-on products to consumers --now fueling a $3 Billion/year marketing channel per GAO**
1996	Federal Response	**Congress finally passes Consumer Credit Reform Act (largely 1992's HR3596), imposes first duties on furnishers [creditors and debt collectors that provide information to credit bureaus] among other reforms. Limited preemption, primarily for new furnisher (bank) duties, to sunset after 8 years.**
1998	Federal Response	Congress criminalizes identity theft, bureaus can now claim ID theft not our fault, "it's bad guys."

QUICK TIMELINE OF SELECTED CREDIT BUREAU (or CRA) EVENTS 1960s-TODAY		
Date	**Problem/Policy**	**What Was the Problem; What was Response?**
2000	Federal Response	Big 3 CRAs fined total of $2.5M (Experian $1M; Equifax $500k; TransUnion $1M) in Operation Busy Signal for failing to comply w/ 1996 amendment to have adequate humans to answer complaint calls
1998-2000	State Response	**California realtors join consumer groups to win right for consumers to see their credit scores, previously prohibited by CRA contracts with user companies**
2002	State Response	**California enacts first data breach notice law**
2003	State Response	**California develops/enacts credit freeze protection right to deter identity thieves**
2003	Federal Response	**Congress passes FACT Act; limited bank preemption made permanent; annual free credit reports (but not free scores) included. Few identity theft fixes.**
2003-2018	State Response	**Following PIRG/Consumers Union model law, 50 states enact credit freeze and data breach notice laws to supplement omissions in FACTA.**
2003	Consumer Action	Consumer protection attorney wins first case against a creditor-furnisher for failing to comply with FCRA in dispute investigation
2005	**CRA Problem**	**Equifax spinoff ChoicePoint fined record $25M by FTC for selling credit reports to identity thieves**
2005-2007	**CRA Problem**	Experian subsidiaries deceptively market subscription-based credit monitoring products by intentionally confusing them w/ free credit report by law
2005-2007	Federal Response	**FTC places Experian under consent order in 2005 for deceptive marketing of subscription products, orders $300k penalty in 2007 for violating 2005 order under FTC Act**
1970-2010	**CRA Problem**	FTC's lack of tools to enforce FCRA leaves consumers at risk of credit and job denial and identity theft as credit bureaus run amuck
2010	Federal Response	**Dodd-Frank Act gives CFPB primary authority over FCRA and new tools to regulate/supervise/investigate/enforce violations of the FCRA**
2012	Federal Response	**In CFPB's first establishment of a "larger participant rule," agency begins examinations (supervision) of large Consumer Reporting Agencies**
2012	Federal Response	**Major FTC study finds 26% of consumers have errors on at least 1 report; 5% of consumers have a serious error that could cause denial of credit or higher costs for credit**
2013	Federal Response	CFPB supervision results in CRAs sharing full consumer complaint files instead of 2-digit summary codes, w/ furnisher creditors in disputes, which advocates contend 1996 amendments had required for over 15 years.
1995-present	**CRA Problem**	**Instead of improving compliance, CRAs respond to sloppy mistake-ridden reports/growth of identity theft by intensifying scare marketing of credit monitoring add-on products to consumers -- now fueling a $3 Billion marketing channel, per GAO, even though consumers are their products, not their customers**

QUICK TIMELINE OF SELECTED CREDIT BUREAU (or CRA) EVENTS 1960s-TODAY		
Date	**Problem/Policy**	**What Was the Problem; What was Response?**
2017	Federal Response	**CFPB fines Equifax $2.5 million; Transunion $3 million and Experian $3 million over deceptive marketing of credit monitoring products by offering "FAKO," not FICO-like, credit scoring products. Also orders Transunion to pay $13.8 million and Equifax to pay $3.8 million in consumer refunds for using bait & switch trial subscriptions**
2017	Consumer Action	Consumer protection attorneys win $60 Million jury verdict against TransUnion for falsely labeling 8,000 consumers as terrorists or drug traffickers.
2012-2017	Federal Response	CFPB releases "Key Dimensions report" and several "Supervisory Highlights" reports that document deficiencies in the Big Three CRAs' dispute systems, confirming findings in NCLC's 2009 Automated Injustice report
2014-2017	Both State/Federal Response	**CFPB supervisory actions and a 31-state Attorney General settlement eliminate tax liens and civil judgements (often posted with inaccurate identifying information) from reports, raising credit scores for 12 million; and reduce the negative impact of medical debt on scores.**
2015	**CRA Problem**	Data breach at Experian involving database used for T-Mobile customers affects 15 million consumers
2017	**CRA Problem**	**Equifax breach: sloppy data security makes SSNs, other sensitive information for 148 million consumers available to outsiders**
2019	Federal Response To Breaches	**Still Waiting...**
2019	Federal Response	**Chairwoman Maxine Waters of House FSC Holds Important Hearing To Review Equifax Breach Response and Discuss Necessary Improvements To FCRA**
Thanks to Chi Chi Wu of National Consumer Law Center for providing ideas.		
U.S. PIRG is responsible for any inaccuracies.		

HEARING BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES

February 26, 2019

Testimony of James M. Peck
President and Chief Executive Officer, TransUnion

Chairwoman Waters, Ranking Member McHenry, and Members of the Committee, thank you for your invitation to be a witness at today's hearing.

My name is Jim Peck, and, since 2012, I have been fortunate to serve as President and Chief Executive Officer of TransUnion.

TransUnion is a global company headquartered in Chicago, with nearly 4,000 employees in the United States and over 7,000 worldwide. Consistent with our mission, we seek to help people around the world, through the power of information, identify and access opportunities that bring a higher quality of life. We strive to ensure fairness for consumers in the marketplace, through access to information, education and empowerment, and precision in the products and services we provide. We also help businesses identify underserved markets, extend opportunities for credit and employment, and mitigate business risks. We process more than 2 billion credit updates to our database monthly, and match these to more than 230 million credit active Americans. Over 166 million Americans have taken advantage of free access to their credit information through TransUnion and our partners.

You have invited our industry to speak before you on a matter of great importance to all of us and to the people of the United States—a vital part of the global economy: credit reporting.

We agree with Congress's findings in the Fair Credit Reporting Act ("FCRA") that "[t]he banking system is dependent upon fair and accurate credit reporting" and that "consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers." We also agree that "there is a need to [e]nsure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy." At TransUnion, we believe a strong, fair, and accurate credit reporting system benefits everyone, from businesses to consumers.

Today, as requested by this Committee, I would like to share our views on how our credit reporting system works, how regulation shapes and supports that system, and how credit scores and credit reports are used, including the benefits the system provides to consumers. I also want to discuss our commitment to accuracy, data security, financial inclusion, and consumer empowerment. Finally, I will highlight suggestions that TransUnion believes can further improve the current system, some of which this Committee has already been considering. We stand ready to work with this Committee to ensure that America's credit reporting system remains the best in the world.

I. The Nation's Credit Reporting System

How the credit reporting system works

The credit reporting ecosystem generally consists of five important stakeholder groups:

- Consumers, who rely on the availability of credit reporting information to obtain access to credit and other financial opportunities and who give permission for their data to be used in the process of enabling that access;
- Lenders and data contributors, or "furnishers," who contribute credit and other payment information to the hundreds of credit reporting agencies, including the three national credit reporting agencies, namely Equifax, Experian, and TransUnion (collectively, the "CRAs");
- CRAs, who collect and report the information in accordance with rigorous legal regulations and industry standards;
- Analytics firms, who build credit models to generate scores from the credit data; and
- Users, who must have a permissible purpose to use credit information and credit scores.

I will focus on our role as a CRA, and how it fits within the broader credit reporting system.

We curate consumer credit information in three primary forms:

First, we maintain consumer credit information in credit files. Credit files contain identifiers, information requests, and account information. Identifiers include names, dates of birth, and Social Security numbers ("SSNs"), and are used to assist in identifying the correct consumer and matching new credit information with that consumer. Credit files *do not* contain information about race, religion, gender identification, or national origin. Information requests include inquiries requesting a consumer credit file. We are required by law to retain and provide records of such inquiries, such as inquiries made to decide whether to extend credit to the consumer. These requests are limited to those entities that have a permissible purpose to access reports under the FCRA. Finally, credit files contain information about a consumer's credit and other payment behavior, which lenders and others provide us directly. This includes account balances and payment histories; accounts placed in collections; and some public record information, such as bankruptcies. Positive information can stay in a credit file indefinitely, though stale information (such as information about closed accounts) may be removed. Most derogatory information—such as adverse account information—will be removed within 7 years; bankruptcies are removed within 10 years.

Second, information from a credit file is structured into a credit report. The report is provided to a consumer, lender, or other permitted user.

Finally, credit scores are generated using information in a credit report at the point in time when the scores are requested, such as when a consumer's credit application is being considered. These scores are calculated by considering factors such as the number of credit accounts, the amount of available credit used by a consumer, the consumer's account payment history, and other information, as permitted by applicable laws, that is empirically, demonstrably, and statistically proven to predict a consumer's

ability to repay a loan. Importantly, there is no single credit score for a consumer. Lenders use different scoring models, which can vary for different credit products (*e.g.*, a model that is predictive for a credit card may be different than a model that is predictive for a car loan).

As a CRA, TransUnion does *not* make lending, employment, or underwriting decisions. Nor do we make decisions as to who should be permitted to access credit reports, or for what purposes they should be used. Rather, we provide *information*, as permitted by law to those with a Congressionally-defined permissible purpose, that can support consumers' applications for credit or other opportunities, based on the information contained in the credit report.

The information we provide, for example, helps lenders make informed credit decisions. This process enables prompt and efficient consumer credit transactions. For example, if a consumer applies for a credit card from a bank, the bank will access the consumer's information from us to support the bank's assessment of the consumer's creditworthiness.

Regulation of the credit reporting system

The primary regulatory framework that governs the credit reporting process is the FCRA, and our compliance with the FCRA is overseen and enforced by the Consumer Financial Protection Bureau ("CFPB") and the Federal Trade Commission.

Enacted in 1970, the FCRA promotes the accuracy, fairness, and privacy of personal information assembled by CRAs. One of the FCRA's most important functions is governance of the process by which consumers can dispute, or correct inaccurate, information in their credit files. The FCRA has been amended many times over the years to improve the dispute process, as well as to prevent and mitigate identity theft through expanded rights to credit freezes and alerts and increased protections for minors.

TransUnion is committed to meeting or exceeding all these requirements through the establishment and continuous refinement of our compliance mechanisms. As our business, technological innovations, and the legal landscape have evolved, we have worked collaboratively with regulators to effectively serve consumers and the credit market.

Use of credit reports and the benefits of the credit reporting system

Ready access to credit for qualified borrowers—from small business owners to car buyers to first-time homeowners—helps to propel America's economy forward. As the former Director of the CFPB, Richard Cordray, observed:

> *Credit reporting is an important element in promoting access to credit that a consumer can afford to repay. Without credit reporting, consumers would not be able to get credit except from those who have already had direct experience with them, for example from local merchants who know whether or not they regularly pay their bills. This was the case fifty or a hundred years ago with "store credit," or when consumers really only had the option of going to their local bank. But now, consumers can instantly access credit because lenders everywhere can look to credit scores to provide a uniform benchmark for assessing risk. Conversely, credit reporting may also help reinforce consumer incentives*

> *to avoid falling behind on payments, or not paying back loans at all. After all, many consumers are aware that they should make efforts to build solid credit.*[1]

The CRAs play a pivotal role in the efficient and stable functioning of the nation's credit system. We essentially act as curators, collecting and assembling information about consumers from lenders, creditors, and others. We share that information with third parties in accordance with specific legal and regulatory requirements, including requirements that dictate who is permitted to obtain consumer credit information, under what circumstances, and for what purpose.

Ultimately, TransUnion is a steward of the framework established by Congress, regulators, and state legislatures under the FCRA and various state consumer protection laws. We defer to policymakers' judgment regarding the permissible purposes for use of credit reports.

As Congress intended when enacting the FCRA, people benefit when their credit behavior is curated and available to the companies that extend them credit without requiring any action on their part. Benefits include:

- *Instant access to funds, goods, and services.* Today's consumers expect instant access to credit, and credit reporting enables this: people can walk into a car dealership, give permission for the dealership to access their credit, and drive away in a new car shortly thereafter. Credit reports showcase consumers' good choices and hard work so that lenders can assess consumers' ability to repay credit. Ultimately, this system enhances consumers' quality of life and strengthens the American economy.

- *Financial inclusion.* Credit reporting also enables an inclusive lending system. Before the first credit bureaus, credit decisions could be highly subjective—a consumer often had to have an established history with a particular institution or a personal relationship with the people making the credit decisions. This often limited the options of women, minorities, and other historically underserved groups. By providing objective data to lenders, the U.S. credit reporting system reduces the risk of human bias in the underwriting process, helping Americans from every background.

  For example, we are proud to foster financial inclusion through partnerships with organizations such as the non-profit Credit Builders Alliance. They work with their network of non-profit lenders to report payment histories for their clients, who typically have little credit history. These non-profits include microlenders who provide small loans to people with limited credit histories and collect and report the borrowers' repayment history. This builds the borrowers' credit history, positioning them to access larger lines of credit going forward.

- *Opportunities to build and rebuild credit.* Over the course of their lifetimes, many consumers find themselves making late payments or missing a payment, with negative consequences. The U.S. credit reporting system, however, including TransUnion's innovations in "trended data," as we discuss further below, enables consumers to reestablish their credit relatively quickly with prompt payments.

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[1] Richard Cordray, *Prepared Remarks by Richard Cordray on Credit Reporting*, Consumer Financial Protection Bureau (July 16, 2012), https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-by-richard-cordray-on-credit-reporting/.

- *Better products for consumers through lender competition.* As curators of consumer information from lenders both large and small, the national CRAs ensure that when lenders fully report to us their substantial consumer information, lenders of all sizes can obtain the data they need to offer competitive products to consumers. As the CFPB found in December 2012, the 10 largest institutions furnishing credit information to the CRAs account for more than half of all accounts reflected in consumers' credit files. By allowing smaller lenders to access the data they need to make safe and sound decisions to extend credit to consumers, we enable a competitive financial marketplace and allow consumers to choose from among the best offerings from both small and large lenders nationwide, resulting in better products and services for consumers.

- *Fraud prevention.* TransUnion's fraud prevention products help reduce the risks of identity theft and other forms of fraud. For example, we offer analytical tools to businesses that can help flag potentially fraudulent behavior, detect fraudulent identities, and even find anomalous behavior indicative of fraud using predictive analytics. And we help consumers protect their identities through credit freezes, locks, alerts, and monitoring.

- *Managing risk for lenders and consumers.* Credit reports help lenders understand the relative creditworthiness of consumers and manage risk across the lifecycle of accounts, which in turn helps them offer credit on more affordable terms to more consumers. Consumers who take on loans they cannot afford to repay risk significant financial and personal hardship to themselves—and sometimes, as we saw with the financial crisis in 2008, to the entire economy. When lenders use credit reports responsibly, they can help ensure that consumers are extended credit only to the extent they can afford and have the ability to repay.

No other economy in the world offers consumers the quick and straightforward access to credit that we do in the United States. This capability provides opportunities to people and gives our economy a valuable global edge.[2]

II. <u>Our Commitment to Accuracy</u>

Data accuracy is the fundamental underpinning for the entire credit reporting system. Lenders and other users of credit information need accuracy to help make good decisions about when to extend credit and other opportunities. Consumers deserve accuracy so they can be rewarded for their efforts to diligently pay their debts and obtain the right credit for their needs.

While we succeed in almost every instance, given the extraordinary volume of information we receive, it is inevitable that sometimes errors occur. We recognize that no statistic of excellence matters to an individual who has been impacted by an error on their report, and we know how distressing any mistake

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[2] *See, e.g.*, World Bank, *General Principles for Credit Reporting* 1 (September 2011), https://openknowledge.worldbank.org/bitstream/handle/10986/12792/701930ESW0P1180ting0pub01002801 1web.pdf?sequence=1&isAllowed=y ("Well functioning financial markets contribute to sustainable growth and economic development, because they typically provide an efficient mechanism for evaluating risk and return to investment, and then managing and allocating risk. . . . Credit reporting is a vital part of a country's financial infrastructure and is an activity of public interest." (footnote omitted)); John M. Barron & Michael E. Staten, *The Value of Comprehensive Credit Reports: Lessons from the U.S. Experience*, in CREDIT REPORTING SYSTEMS AND THE INTERNATIONAL ECONOMY, 273, 2731 (2003) ("Armed with the most comprehensive consumer payment histories on the planet, creditors [in the United States] apply statistical scoring models to estimate an individual's repayment risk with remarkable accuracy. Reliance on risk scoring has fundamentally improved the efficiency of U.S. credit markets and has brought consumers lower prices and more equitable treatment. Perhaps most significantly, credit bureau data has made a wide range of credit products available to millions of households that would have been turned down as too risky just a generation ago.").

can be to a consumer. We work hard to prevent errors and address them quickly and efficiently when they occur. It is our shared interest to make the data as accurate as possible. We hold ourselves accountable, learn from our mistakes, and improve every day.

All stakeholders in the U.S. credit market play an active role in establishing and maintaining accuracy, which depends upon (a) TransUnion receiving accurate, complete, and timely information; (b) TransUnion's ability to match incoming data with the correct consumer; and (c) consumers reviewing their credit reports for accuracy and engaging in the dispute process.

Receiving accurate, complete, and timely information

TransUnion receives data on a voluntary basis from a range of data furnishers. Each furnisher is thoroughly vetted before being approved to provide data and is repeatedly reviewed throughout their relationship with TransUnion. We use a combination of technology, people, and processes to validate information and review anything flagged as anomalous. In accordance with the FCRA and to ensure the maximum possible accuracy, TransUnion:

- Applies a rigorous screening process that includes on-site visits to assess and vet furnishers;
- Reviews data to confirm it is in the correct format for inclusion in the TransUnion data environment;
- Confirms provided data is consistent with previous data; and
- Flags any anomalies, which are returned to the provider for them to address.

Matching incoming data with the correct consumer

As noted earlier, we process more than 2 billion credit updates monthly, and match these to more than 230 million active credit consumer profiles in the United States. Because of the importance of accuracy, we have invested in developing industry-leading matching algorithms. We constantly assess—and seek to improve—the accuracy of our algorithms to maximize our ability to match the right information to the right consumer. We continually look for ways to get the balance right: tight enough to yield a correct match, but loose enough to not exclude appropriate information.

Matching errors sometimes occur due to manual errors furnished to TransUnion. We employ a range of capabilities that automatically identify and correct issues, such as transposed digits in SSNs, name misspellings, and near-miss addresses. These processes are designed to produce the most accurate matching results possible. In 2018, less than ½ of 1% of disputes filed with TransUnion were associated with incorrectly combining credit files.

Despite tremendous efforts by both TransUnion and our furnishers to match with the highest degree of accuracy possible, no process or person is perfect and mistakes happen. When they are identified, steps are taken to correct them as quickly as possible.

Consumer disputes

Consumers are vital stakeholders in the U.S. credit reporting system because they rely on the availability of credit reporting information to access opportunities and because they give permission for their data to be used to enable that access. That is why we believe that consumer empowerment, as described more fully below, is a key element for accuracy and a successful and meaningful dispute process.

TransUnion's dispute process is governed by the FCRA as well as various state laws, and we have a reliable, well-documented dispute process. Under the FCRA, we are required to investigate a consumer's claim within 30 days (subject to extensions in certain circumstances); contact the originating data furnisher within 5 days; notify data furnishers when changes are applied; and inform the consumer of investigation results.

If a consumer identifies an error, we assist them with resolving the issue. Most disputes result from a discrepancy between the furnished information and what the consumer believes to be correct. We work hard to help consumers quickly address any errors in their credit report and to work with the furnishers to quickly resolve inaccurately-reported items.

- Consumers can address inaccuracies on their TransUnion credit report for free online, by phone, or by mail. They can also supply us with supporting documentation. Consumers can file disputes both directly with TransUnion, and indirectly via many of our partners.

- If we can resolve the dispute based on the information provided by the consumer, we make changes to the consumer's credit report within days to ensure consumers get the benefit of their payment behavior. Over 25% of disputes are resolved within one week.

- If we cannot resolve the issue, we contact the provider of the disputed information and forward the consumer's dispute and supporting documentation to the provider to investigate and verify the information, or modify or delete the item with us and in their records. Investigations are typically concluded within 30 days.

- Once the investigation is complete, the consumer is provided with the results of their dispute investigation, details on how their disputed account(s) changed, and information about what they can do if they are not satisfied with the outcome of the dispute. When we communicate the results, TransUnion also provides access to a free copy of a full credit report.

Changes made as part of the National Consumer Assistance Plan resulted in improvements in communicating dispute results to consumers, as well as the removal of commonly-disputed items from TransUnion credit files, including tax liens, civil judgments, certain medical debt, and non-contractual collections.

While TransUnion has continually strived to enhance our data accuracy and consumer experience, we recognize that nobody can improve the credit reporting system single-handedly. All participants in the credit market—including data furnishers and other information sources—will need to work together to improve accuracy, consumers' experience, and availability of credit in a safe and secure environment.

III. Our Commitment to Data Security

As a nationwide CRA, we collect, store, and transmit a large amount of sensitive and confidential information. We are acutely aware that consumers count on us to safeguard their information, as do TransUnion's furnishers and business customers. Like many financial institutions and other companies holding valuable data, we experience numerous attempts to attack our systems, networks, and other assets on a daily basis. That is why information security is a priority company-wide at all levels of our organization.

The TransUnion information security team operates globally across all of our business units and locations, ensuring coverage and visibility 24 hours a day, 7 days a week. Threats are monitored and evaluated, and our internal controls are adjusted as needed, as we strive to remain effective in a rapidly changing threat environment. Our global information security team is staffed with cyber threat and intelligence experts who have backgrounds in law enforcement, the military, and elsewhere in government. Our Information Security program also includes robust policies, employee training, and advanced technology with support and oversight from the Board of Directors and executive management, including me.

We choose to follow and assess ourselves against numerous standards set by the National Institute of Standards and Technology ("NIST"), which focus on preventing, detecting, and responding to cyber threats. This includes, among other technical standards, the NIST Cybersecurity Framework, a voluntary protocol consisting of standards, guidelines, and best practices to manage cybersecurity-related risk. We also follow the Financial Services Sector Cybersecurity Profile, which was developed collaboratively between public and private sectors and which recommends steps beyond those in the NIST Cybersecurity Framework to reduce cybersecurity risk unique to the financial sector.

The large financial institutions we work with, who share our interest in safeguarding the information they share with us, also require us to comply with the highest standards. We are regularly subject to third-party vendor audits by the most sophisticated financial institutions in the world. We welcome the rigor of these reviews, as we are confident that our security controls are compliant with the highest standards to which banks are held.

TransUnion takes a multi-layered, risk-based approach to security, which is based on a number of overlapping and redundant controls to reduce the risk of a single point of failure, consistent with consumer, business customer, and regulator expectations. This approach is designed to prevent, detect, and respond—that is, to decrease the likelihood of a breach occurring; reduce the duration of any breach that does occur by ensuring that it is quickly identified; and minimize the impact of a breach by quickly limiting the reach of any compromise and closing off any further access to the environment.

Of course, like virtually any industry and government, we are routinely subject to cyber attacks that we must defend against and vulnerabilities we must address. We also constantly have to defend against fraudulent misuse of customer accounts with access to our data. TransUnion has not had a material event that resulted in the loss of consumer credit data.

Examples of the types of tools, controls, and procedures we use include:

- *Network tools.* TransUnion deploys intrusion detection and prevention systems that monitor for, alert on, and block malicious network attacks; web application and network firewalls that analyze traffic, limit traffic from unknown and potentially malicious IP addresses, and prevent the denial of services or data theft; an advanced network threat protection and breach detection platform that provides visibility and protection against sophisticated and damaging attacks; and network security monitoring to detect emerging, targeted, and unknown network threats.

- *Endpoint tools.* TransUnion leverages advanced malware detection and blocking that utilizes artificial intelligence, algorithmic science, and machine learning.

- *Audits and assessments.* In addition to audits and reviews conducted by our financial institution customers and regulators, we continually evaluate and assess our own program, including by regularly engaging external companies to pressure test our security governance, environment, and controls through assessments, penetration tests, and simulated attacks.

- *Incident response planning and readiness.* We recognize the importance of ongoing preparedness, so we regularly update and test our response plans, educate our leaders and employees around the world on protocol, and host drills to pressure-test our capability. In the past three years, we have conducted data breach tabletop exercises with more than 250 leaders worldwide. These efforts have helped us respond quickly and effectively to situations affecting our industry. For example, when we learned of the Equifax breach, we immediately activated our data issue response plan, notifying executive leadership and our Board of Directors quickly and ramping up consumer phone and online support.

- *Information sharing and collaboration.* We are committed to working with government, others in our industry, and companies in other sectors to meet these threats head-on. For example, we are a member of the highly-regarded Financial Services Information Sharing and Analysis Center.

But we can always do more. That is why we are devoting increasing resources to cybersecurity to keep pace with the ever-increasing cyber threats facing our economy.

While we are taking extensive measures to meet the increasing threats of cybersecurity and fraud, security is not only a credit reporting problem. This is a serious threat to all industries and organizations, and it is not going away.

IV. <u>Consumer Control of their Data</u>

Consumer Empowerment

Our experience tells us the vast majority of American consumers understand the benefits of the U.S. credit reporting system. Consumers would benefit, however, from more education about how to access and manage their own consumer report information.

Our goal is to ensure that all Americans are well-informed and, to that end, we provide substantial educational information and tools to help American consumers better understand their credit information.

Specifically, consumers are empowered to:

- Review the credit information that lenders see via a free credit report every year from each CRA through annualcreditreport.com, and via TransUnion reports available any time through free products such as TransUnion's TrueIdentity product;
- Know when they are denied credit and why;
- Be notified when their information changes with TrueIdentity's free alerting service;
- Dispute information in their credit report that they feel is incorrect;
- See their credit scores; and
- Control access to their information—to lock or freeze their credit for free—so no one can use their TransUnion credit report to open a new account.

Through these and other tools, TransUnion has been a leader in empowering American consumers through increased access to and control of their personal financial information.

Helping People Preserve Opportunities Through Government Shutdowns

We understand our obligation to be sensitive to unforeseen financial hardships outside of individuals' control, that could, if not properly understood, adversely impact their credit. That is why we are committed to helping consumers through these circumstances, such as the partial government shutdown. Government employees and contractors work hard for our country, and we have taken several actions to help them alleviate any financial consequences from the shutdown. Specifically:

- We have reminded lenders and landlords about forbearance codes they can use to report missed payments to CRAs without negative impact.
- We are offering affected federal employees and contractors a free subscription to myTrueIdentity. With myTrueIdentity, consumers will receive credit monitoring and alerts, unlimited TransUnion credit reports, credit lock, credit score, and score trending. These tools will help consumers keep track of any changes to their credit information. The subscription is good for one year after activation, free of charge.
- We have a dedicated government shutdown customer service phone line (1-844-253-1943) if a consumer would like to speak to someone directly.
- We also have a comprehensive list of other resources available on TransUnion.com.

Emerging data and information issues

At TransUnion, we are carefully assessing emerging data and information issues, such as artificial intelligence and the proliferation of new data sources. Evolving technology presents both opportunities and challenges. We are committed to working with stakeholders to find the right balance among harnessing innovation, maximizing opportunities to keep our communities and economy safe via fraud prevention and risk mitigation, and respecting consumers' rights. We look forward to working with the Committee to thoughtfully work through these issues to balance these goals appropriately.

V. **Recommendations**

While our processes are designed to meet the purposes of the FCRA, we recognize that more can always be done to improve processes for the American consumer, including by having more complete information furnished on a timely basis. TransUnion looks forward to working with the Committee on balanced proposals that would increase transparency, foster financial inclusion, and empower consumers to better understand how their actions affect their ability to receive products and services. Specifically, we recommend exploring how our industry can use technology and processes that could provide more timely updates of critical credit events; establish new standards for reporting student loan data; increase the number of Americans able to access credit; help improve scores and access to credit innovations; protect SSNs; and enhance consumer financial education.

We recognize that our world is not static, and technology, processes, and consumer behavior are constantly changing. Our recommendations are focused on potential areas for improvement that we can begin to explore now. Moving forward, we welcome the Committee's ideas for how we can continue to meet the challenges and needs of an ever-changing American and global economy.

1. More timely updates of critical credit events

In today's digital economy, consumers can make a payment online and see a new balance reflected almost instantly. More timely reporting of that information, particularly for critical credit events, such as loan payoffs, would be beneficial to consumers.

For example, a family saving money to buy their first home may learn that they need to reduce their debt to qualify for a mortgage or to obtain a better mortgage rate. To achieve this goal, they may decide to pick up overtime shifts or go out to eat less, so they can pay off a prior debt, such as an auto loan. When they look at their credit report, however, the payoff may not show immediately on their report. This might lead them to initiate a dispute, which typically could take up to 30 days—days that are critical in the mortgage approval process. This could result in a family not receiving the best rate or not qualifying for a mortgage at all.

TransUnion recommends more timely reporting of key credit events, such as loan payoffs, where possible. This could enhance credit report accuracy and resolve issues before consumers need to dispute them.

2. Establish new standards for reporting student loan data

Student loans are often a consumer's first credit obligation and an important way for many consumers to begin establishing a credit history. Lenders extend other types of credit on better terms to young consumers who have shown an ability to manage their student loan payments.

We are working with other industry stakeholders to improve reporting of these loans, in an effort to streamline the reporting process. Although industry guidance provides that student loans from a single entity should be reported as a single account, some student loan servicers continue to report each disbursement as a separate account, and, if a payment is missed, it results in a disproportionate negative impact. While TransUnion has been able to identify examples of such issues through consumer disputes, the data provided from furnishers makes it difficult for us to resolve these issues proactively on our own.

TransUnion recommends process enhancements for how student loans are reported to provide better support for our nation's student borrowers.

3. Increase the number of Americans able to access credit

Today's typical consumer habits can be very different from consumer habits from only a few years ago: many people have more than one job, they increasingly rent their homes, and car ownership is no longer standard in many communities. What was once common credit data may not be as prevalent in this increasingly technological and mobile age. Data sources that have traditionally been considered "alternative," such as rental, telecommunications, and utility payment data, are increasingly necessary to provide lenders with a full picture of potential borrowers.

By way of illustration, a 30-year-old, single woman living in a rural area works as a manager at a local grocery store. She rents a home near her job and drives a used car she inherited from a family member. She maintains savings and checking accounts, but has no credit card, since many of the local stores in her community only accept cash. Her on-time payment history with her rental and utility companies show that she is a good candidate for a loan. However, without this data, she would be "credit invisible," meaning she would not have a nationwide CRA file.

In 2015, a CFPB report estimated that as of 2010, 11% of American adults were credit invisible. Another 8% had a file but the information was insufficient or too stale to be scored.[3] Today, rental payments are not always considered in credit risk decisions. Utility data, such as cell phone bill payments, are either not reported or reported only when late.

This problem disproportionately affects minorities and low-income communities. As a result of our innovations in alternative credit data, financial institutions can now lend to emerging credit populations with greater insight. A study from the Policy and Economic Research Council and Brookings Institution demonstrated that reporting utility and telecommunication payments to credit reporting agencies enables 40% of previously un-scoreable consumers to gain access to prime credit. At TransUnion, alternative data has already helped over 60 million credit invisible or credit-disadvantaged consumers gain greater access to credit by supplementing traditional credit information with new insights that reflect broader payment behaviors.

Consistent with the Chairwoman's proposals, TransUnion recommends a study of potential content reporting improvements, including reporting of alternative data, to more accurately reflect the modern economy and consumer behavior.

4. Help improve scores and access to credit innovations

While credit scores built on traditional data measure consumers' creditworthiness at the moment the scores are generated, credit scores using trended data provide a more complete picture by showing consumers' credit usage and payment behaviors over time. Lenders can therefore "see the story beyond the score." These types of innovations—such as we provide through our *CreditVision* product—help

[3] Consumer Financial Protection Bureau, DATA POINT: CREDIT INVISIBLES 6 (May 2015), https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf

consumers re-establish and improve their credit and can help move them from sub-prime to prime rates, and even prime to super prime rates.

For people who may have lost their jobs in the 2008 financial crisis, the impact may be felt for some time. If they defaulted on their mortgage, their credit scores built on traditional data may still be too low to qualify for the best rates. Instead of simply seeing the lower credit score, we can help the lender see the score trend, and that a person has been making payments that indicate a steady consistent upward trend.

TransUnion has used trended data to help previously credit invisible or credit-disadvantaged consumers gain greater access to credit, either for the first time or on more affordable terms. Trended data has also helped consumers raise their credit scores and obtain better credit terms.

TransUnion recommends expanded use of trended data to increase consumer opportunities by empowering consumers to build or rebuild their credit more quickly.

5. Protect Social Security Numbers

SSNs continue to be the one unique piece of identification that does not change, unlike names, addresses, and other identifiers. As a result, it is an invaluable piece of data to match information. Because it is so valuable, its compromise can present risks.

TransUnion recommends that standards be developed limiting the use of SSNs to matching purposes. And, as a member of the Better Identity Foundation, TransUnion is open to studying the use and protection of SSNs.

6. Enhance financial education

We believe there is opportunity for all members of the credit reporting ecosystem to do more to help consumers understand their credit. The prime opportunity for such engagement is whenever stakeholders interact with their customers.

All stakeholders should work together to enhance consumer financial education programs.

VI. Conclusion

TransUnion is proud of our work to help people access opportunities. We have a long history of empowering American consumers and helping businesses and organizations grow. We know that we can continue to improve by working with this Committee, with regulators, and with the broader industry to make our credit reporting stronger, fairer, and more accurate for everyone.

Thank you for the opportunity to testify today. I look forward to your questions and to a productive dialogue on these important issues.

Missing Credit: How the U.S. Credit System Restricts Access to Consumers of Color

Testimony of

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Before the

U.S. House Committee on Financial Services

Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System

Tuesday, February 26, 2019

Introduction

The National Fair Housing Alliance is the nation's only national civil rights organization dedicated to eliminating all forms of housing discrimination and ensuring equal housing opportunity through leadership, education, outreach, membership services, public policy initiatives, community development, advocacy, and enforcement. NFHA is a trade association comprised of over 200 members located throughout the United States.

NFHA has worked to address how the U.S. credit system restricts access to consumers of color since our inception 30 years ago. This work includes efforts to reduce discrimination in the extension of credit, expand credit opportunities for under-served groups and improve the financial services market. Our work with industry partners and our network of community- and state-based organizations gives us unique insights into how credit markets function and impact under-served consumers and markets. NFHA works with credit modelling organizations to help lessen the discriminatory impact of scoring systems. We engage with segments of the housing industry who create or utilize algorithmic-based systems to improve their utility for under-served groups. We also provide training and technical assistance to our members who work directly with consumers to advance their fair housing rights, build their credit, counsel them on the homebuying process, and educate them on accessing credit.

Expanding access to quality, sustainable credit comprises much of NFHA's work since this issue has profound implications for communities of color and other classes protected by our nation's anti-discrimination laws and because the use of consumer credit data has spread precipitously. Businesses use credit data for decisioning in employment, housing, lending, insurance, medical, utility and other areas. The information captured by the credit repositories is being used for more than determining whether a person can obtain a loan or how much a consumer will be charged for a credit card. This information is also being used to determine whether a consumer can receive insurance, obtain a job, rent an apartment, or secure utility services.

While credit repositories capture all types of data from myriad sources, they do not capture information that explains the impact of discrimination and racial inequities that are replete throughout our markets and society. Moreover, repositories adopt policies that favor the provider of the credit data over the consumer, even when the entity has engaged in discriminatory or fraudulent conduct. This makes it difficult for people to illustrate why a negative entry on their credit report may be erroneous. Further, repositories do not collect alternative or non-traditional credit information that can result in expanded access to quality, sustainable credit for under-served groups.

The U.S. Dual Credit Market

Historical and current discrimination created and perpetuates the U.S. dual financial market and drives the racial wealth gap tainting the data housed in credit repository systems. Housing policies established from the inception of this nation were expressly designed to assist whites in gaining land and homeownership rights while simultaneously denying people of color the same opportunities. During the colonization of America, headrights were granted to White heads of households. Land was seized from Native tribes by British militias to grant 50 – 100 acres of land for each person in the household including slaves and indentured servants[1]. The headrights system morphed into the Land Grant and Homestead programs – both operating to seize land from Native tribes and provide housing opportunities primarily to Whites to the exclusion of People of Color. Those systems were followed by a bevy of homeownership programs implemented by federal agencies. Each created housing programs and policies that provided benefits for white citizens, required residential segregation, and denied benefits to People of Color.

The most common of these programs were ran by the Home Owners Loan Corporation (HOLC) and the Federal Housing Administration (FHA). These agencies, established as New Deal programs during the Great Depression, helped millions of people save their homes from foreclosure or become first time homebuyers fueling the generation of trillions of dollars of wealth for those who were able to access the programs.

The HOLC was established in 1933 to refinance people who were losing their homes during the Great Recession from unsustainable loans into stable, fully amortizing loans over an extended loan term. In order to determine which areas would be safe for government-backed lending and what rate borrowers would pay, the HOLC created a series of residential security surveys and maps. These maps are commonly referred to as "redlining" maps. While the HOLC did not create mortgage redlining, it did provide the mechanism for institutionalizing the system. The redlining surveys and maps ranked neighborhoods by security grades – Grade A – Green (Best); Grade B – Blue (Still Desirable); Grade C – Yellow (Definitely Declining); and Grade D – Red (Hazardous)[2].

One of the major considerations for determining if an area would be coded red or "hazardous" was racial composition of the neighborhood. This is an important point as many people believe that neighborhoods that were predominately communities of color were relegated to Grade D or labeled "hazardous." This is not the case. If there were any African Americans living in a community, the area was coded red. If there was a likelihood that African Americans would be moved into an area, that also

[1] Rice, Lisa. *"Long Before Redlining: Racial Disparities in Homeownership Need Intentional Policies,"* ShelterForce, February 15, 2018. https://shelterforce.org/2019/02/15/long-before-redlining-racial-disparities-in-homeownership-need-intentional-policies/

[2] Nelson, Robert K., LaDale Winling, Richard Marciano, and Nathan Connolly, et al. 2016. *Mapping Inequality*. American Panorama, ed. Robert K. Nelson and Edward L. Ayers. https://dsl.richmond.edu/panorama/redlining/#loc=11/39.2930/76.6330&opacity=0.94&text=intro&city=baltimore-md

warranted a "hazardous" grade. In fact, the Residential Security Survey form had a permanent slot to indicate the number of African Americans living in an area. Moreover, if there were other racial or ethnic groups living in the area, that could also merit a "hazardous" grade. Heterogeneous communities were down-graded while predominately White homogenous areas received higher grades. Below is the Residential Security Survey for area D26 in Los Angeles, California – the sole red labeled area in a sea of green, blue, and yellow coded neighborhoods. It received its "hazardous" grade in large part due to its 2% "Negro" population and the presence of Mexican and Japanese families and because it was "highly heterogenous" and had a "presence of subversive racial influences."

AREA DESCRIPTION
Security Map of Los Angeles County

1. POPULATION: a. Increasing ... Decreasing ... Static Yes
b. Class and Occupation Factory laborers, [illegible] employees, low income wage earners, some clerical, Income [illegible]
c. Foreign Families [illegible] % Nationalities Mexicans & Japanese d. Negro 2 %
e. Shifting or Infiltration No
2. BUILDINGS PREDOMINATING 75 % OTHER TYPE %
a. Type and Size 4-5 room bungalows Multi-family 10%
b. Construction Frame & stucco 6 rooms 5%
c. Average Age 20 years Shacks 10%
d. Repair Poor to fair
e. Occupancy 98%
f. Owner-occupied 20%
g. 1935 Price Bracket [illegible] % change $ % change
h. 1937 Price Bracket [illegible] % $ %
i. 1939 Price Bracket [illegible] % $ %
j. Sales Demand Poor
k. Predicted Price Trend (next 6-12 months) Static (see below)
l. 1935 Rent Bracket [illegible] % change $ % change
m. 1937 Rent Bracket [illegible] % $ %
n. 1939 Rent Bracket [illegible] % $ %
o. Rental Demand Good
p. Predicted Rent Trend (next 6-12 months) Static to upward 4 & 5 room

From Mapping Inequality: Redlining in New Deal America
https://dsl.richmond.edu/panorama/redlining/#loc=11/33.9254/-118.4185&opacity=0.94&city=los-angeles-ca&sort=16,308&area=D27&adimage=3/76/-120

The HOLC systemized the process for associating race with risk in our financial system. The FHA, building off of the HOLC's racialized system of redlining communities of color, developed race-based underwriting guidelines[3] that not only promoted residential segregation but described People of Color as "incompatible racial elements" and "inharmonious racial groups". The FHA's first Chief Housing Economist, Homer Hoyt, encouraged the use of racially restrictive covenants - even after the Supreme Court declared their use by real estate professionals to be illegal - by giving preferential treatment to communities that adopted them[4]. From 1934 to 1962, the government backed over $120 billion in

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[3]See http://wbhsi.net/~wendyplotkin/DeedsWeb/fha36.html and https://babel.hathitrust.org/cgi/pt?id=mdp.39015018409246;view=1up;seq=5

[4] Squires, Gregory D. 2018. The Fight for Fair Housing: Causes, Consequences, and Future Implications of the 1968 Federal Fair Housing Act. New York: Routledge.

mortgages but the race-based policies of the FHA meant that fewer than 2 percent of loans went to People of Color. At a time when White Americans were gaining access to homeownership and amassing wealth to fund their children's education, establish businesses, and seed inheritances, People of Color were denied this unique benefit and unable to build wealth for their families. Had the government not discriminated in the HOLC and FHA programs, and demanded that those participating in these federal programs abide by the Civil Rights Act of 1866 and the 14th Amendment, People of Color, and African Americans in particular, would have been able to make more normal strides in gaining wealth, homeownership, and other opportunities families need to thrive.

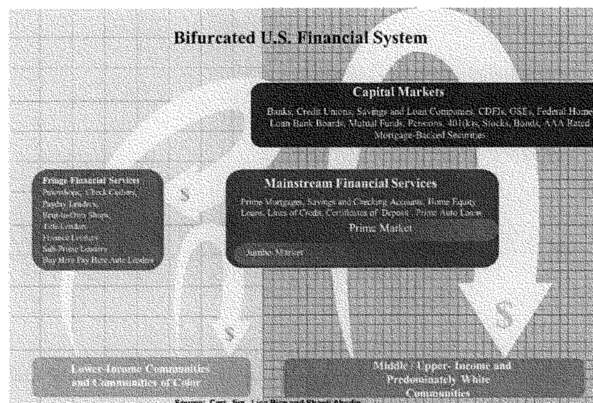
Instead, the government's policies expanded the credit access and wealth gaps, inculcated the association of race and risk into our financial and housing systems, and cemented the elements of the dual credit market which still exists today. The HOLC's system of redlining communities still impacts. The Federal Reserve Bank of Chicago found that "C" and "D" graded areas experienced significant increases in African American residents from 1932 onward. They also found "long-run decline in home ownership, house values, rents, and credit scores[5]" as these areas were increasingly segregated and disinvested by governments and the private sector.

As mainstream lenders, who participated vigorously in the HOLC and FHA programs, pulled out of "C" and "D" graded communities, subprime and fringe lenders moved in. Unscrupulous businesses peddled predatory land contract deals to borrowers starved for credit. America's bifurcated financial system (depicted below) flourished trapping under-served borrowers into a system that is equity stripping and precluding them from accessing the financial mainstream which is designed to help consumers build wealth.

The illustration below depicts the U.S. separate and unequal credit system. The tan side reflects the non-traditional, subprime or alternative credit market where entities like check cashers, payday lenders, title money lenders, subprime lenders, and buy-here, pay-here creditors operate. When consumers access credit in this space, it does not inure to their benefit. Many operators in this space do not report positive payment behavior to the credit repositories. In a perverse arrangement, however, if consumers are delinquent and their debt goes to a collector, that negative information will be reported to the credit repository agencies.

Non-traditional or alternative credit providers are often less regulated than mainstream credit providers and are more apt to develop products that are not safe or sustainable or are designed to push borrowers into delinquency to enhance the probability that their customers will be levied fees and be caught in a debt trap.

[5] Aaronson, Daniel, Daniel Hartley, Bhash Mazumder, 2018. The Effects of the 1930s HOLC "Redlining" Maps (Revised). Federal Reserve Bank of Chicago.



Non-traditional creditors are also highly concentrated in Communities of Color while there is a dearth of mainstream financial institutions located in African American, Native Indian, and LatinX communities. An analysis by Magnify Money revealed there is a direct correlation between neighborhood racial composition and presence of bank and credit union branches. Trulia, in cooperation with NFHA, conducted a similar analysis revealing that communities of color have 35.1% fewer traditional banking establishments than majority-White areas. Likewise, Communities of Color have twice as many non-traditional credit establishments like check cashers and payday lenders than majority-White areas.

The dual credit market impacts where and how people can access credit and effects credit visibility and credit scores. We continue to see differences in credit scores tied to residential segregation. The CFPB conducted an examination of credit scores for about 200,000 consumers and found that areas with higher concentrations of People of Color tended to have lower median credit scores[6]. According to the study, the median FICO score for consumers in majority non-White zip codes was in the 34th percentile. Comparatively, the median FICO score for majority-White zip codes was in the 52nd percentile. This finding is no surprise as it reflects several studies that reveal the same patterns over time. It also is illustrative of the fact that African American communities, heavily targeted by subprime lenders and disproportionately impacted by the foreclosure crisis, are disproportionately experiencing credit damage[7].

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[6] See CFPB Study – Analysis of Differences between Consumer- and Creditor-Purchased Credit Scores. 2012. Available at: https://files.consumerfinance.gov/f/201209_Analysis_Differences_Consumer_Credit.pdf

[7] Mui, Ylan, *"For black Americans, financial damage from subprime implosion is likely to last"*. The Washington Post, July 8, 2012. Available at: https://www.washingtonpost.com/business/economy/for-black-americans-financial-damage-from-subprime-implosion-is-likely-to-last/2012/07/08/gJQAwNmzWW_story.html?noredirect=on&utm_term=.393d5b1c2e26

Data is Not Innocuous

Discrimination in the marketplace taints the data collected by credit repositories thus data can be extremely harmful. Discrimination in the employment, housing, credit, health and other sectors impacts the type and quality of data reflected in our credit repository system. How that data is ultimately used by credit modelling agencies can exacerbate disparities and negatively affect the racial wealth gap which is getting worse[8]. Credit scores, which are fundamentally built upon the data housed in the credit repositories, are to a large degree a function of wealth as opposed to willingness or ability to pay a debt. But credit scoring systems behave as though wealth is a function of personal or individual performance when it is, rather, determined by policies that have systemic manifestations – policies that help some and inhibit others. Although discrimination is a common occurrence, it is not accounted for in the way credit data is collected or utilized.

Auto Loan Testing Findings

- 62.5% OF THE TIME, NON-WHITE TESTERS WHO WERE MORE QUALIFIED THAN THEIR WHITE COUNTERPARTS RECEIVED MORE COSTLY PRICING OPTIONS.
- ON AVERAGE, NON-WHITE TESTERS WHO EXPERIENCED DISCRIMINATION WOULD HAVE PAID AN AVERAGE OF $2,662.56 MORE OVER THE LIFE OF THE LOAN THAN LESS-QUALIFIED WHITE TESTERS.
- 75% OF THE TIME, WHITE TESTERS WERE OFFERED MORE FINANCING OPTIONS THAN NONWHITE TESTERS. DEALERS OFFERED TO HELP BRING DOWN INTEREST RATES AND CAR PRICES USING INCENTIVES AND REBATES OR BY MAKING PHONE CALLS TO PERSONAL CONTACTS FOR WHITE TESTERS MORE OFTEN THAN THEY DID FOR NON-WHITE TESTERS.

In the housing sector alone, there are over 4 million instances of discrimination each year. NFHA partnered with the Zillow group in its annual Zillow Housing Aspirations Report (ZHAR)[9] to query over 10,000 adults in the largest 20 metropolitan areas across the U.S. The analysis found that 25% of respondents believe, that over the course of their lives, they have experienced housing discrimination.

Consumers are highly likely to experience discrimination when shopping for an auto loan. In 2017, NFHA conducted an in-depth testing analysis of 8 different franchised car dealerships in Virginia[10]. Within each test, a White tester was matched with a better-qualified Non-White tester. The pairs were sent to inquire about pricing and loan terms for the same vehicle based on the vehicle identification number (VIN#) within 24 hours of one another.

The tests were designed so that the Non-White tester had a better financial profile and was more credit-worthy based on credit score, debt-to-income ratio, income and other criteria. Despite being better qualified, Non-White testers were given more

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[8] Anzilotti, Ellie, *"The racial wealth gap is worse than it was 35 years ago,"* Fast Company, January 15, 2019, Available at: https://www.fastcompany.com/90292185/the-racial-wealth-gap-is-worse-than-it-was-35-years-ago

[9] See *"What Modern-Day Housing Discrimination Looks Like: A Conversation with the National Fair Housing Alliance,"* Zillow Research, February 4, 2019. Available at: https://www.zillow.com/research/modern-housing-discrimination-22898/

[10] Rice, Lisa, Erich Schwartz, Jr., and Shivaughn Ferguson, Discrimination When Buying a Car: How the Color of Your Skin can Affect Your Car-Shopping Experience. National Fair Housing Alliance, January, 2018. Available at: https://nationalfairhousing.org/wp-content/uploads/2018/01/Discrimination-When-Buying-a-Car-FINAL-1-11-2018.pdf

expensive pricing options and were more likely to pay significantly more for the same vehicle. White testers were far more likely to be taken seriously as buyers, were presumed to be better qualified when they were not, and were more likely to obtain specific information about financing and pricing. White testers also received discounts for which they did not qualify and were more likely to receive better quality service.

The denial of a housing opportunity, a car loan or insurance can have a negative impact on a consumer particularly because it significantly increases the likelihood that the consumer will need to expand their shopping experience. A customer who is denied a loan at one bank, must apply for credit at a second bank. That same consumer might be quoted an inordinately high interest rate, compelling her to go to a third bank thus increasing the number of inquiries on the consumer's credit report. However, there is no space within the credit reporting system for a consumer to indicate that they are experiencing discrimination. There is no way to compensate for the negative impact of discrimination in the way credit information is captured by the repositories.

Discrimination extends far beyond the housing and lending sectors. Bias in the employment market is commonplace[11]. This is profoundly impactful since the number of employers using credit checks is increasing[12]. For example, the Department of Labor's Office of Federal Contract Compliance Programs recently settled a claim against Bank of America which charged that the bank had discriminated against African Americans in its hiring practices. An Administrative Law Judge found that there were racial differences in the candidates who were excluded from consideration based on the evaluation of a credit report - 11.5% of Black candidates were excluded and in comparison, 6.6% of white candidates were excluded[13].

Bias in the housing and employment markets coupled with disparities in health insurance coverage[14], prevalence of medical debt collections,[15] inequities in student loan debt[16], and disparities in homeownership rates all contribute to the racial wealth gap. According to an analysis by DEMOS[17], in 2011 the median White household had over 15 times the wealth of African American households and over 13 times the wealth of LatinX households. Prosperity Now projects that, due to the historical and

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[11] See DISCRIMINATION IN AMERICA: EXPERIENCES AND VIEWS OF AFRICAN AMERICANS, Harvard T. H. Chan School of Public Health, Robert Wood Johnson Foundation, and NPR, October, 2017. Available at: https://www.npr.org/assets/img/2017/10/23/discriminationpoll-african-americans.pdf

[12] See statement of Sara Crawford, Esq., Lawyers Committee for Civil Rights Under Law at the Meeting and Hearing of the U.S. Equal Employment Opportunity Commission, October 20, 2010. Available at: https://www.eeoc.gov/eeoc/meetings/10-20-10/crawford.cfm

[13] id.

[14] Artiga, Samantha, Kendal Orgera, and Anthony Damico, "Changes in Health Coverage by Race and Ethnicity since Implementation of the ACA, 2013-2017," Kaiser Family Foundation, February 13, 2019.

[15] See DEMOS Fact Sheet – The Color of Debt: Credit Card Debt by Race and Ethnicity. Available at: https://www.demos.org/sites/default/files/publications/FACTSHEET_TheColorofDebt_Demos.pdf

[16] See National Center for Education Statistics. Available at: https://nces.ed.gov/datalab/index.aspx

[17] Sullivan, Laura, Tatjana Meschede, Lars Dietrich, Thomas Shapiro of The Institute for Assets and Social Policy, Brandeis University and Amy Traub, Catherine Ruetschlin & Tamara Draut of DEMOS. The Racial Wealth Gap: Why Policy Matters. 2015. Available at: https://www.demos.org/sites/default/files/publications/RacialWealthGap_2.pdf

current systems that perpetuate inequality, if White wealth were to remain fixed where it is today, it would take African Americans 228 years and LatinX 84 years to catch up[18]. The racial wealth gap means that households of color have less wealth to fall back on and thus are required to access more credit, furthering exacerbating wealth gaps and diminishing credit scores for People of Color.

When credit repositories gather data, they do not simultaneously ascertain if a consumer has obtained credit from a predatory, discriminatory or abusive debtor for the purposes of ameliorating any negative fallout. Data is captured as if it is innocuous and benign when the opposite is the case. Data is infused with the discrimination replete throughout our society. When credit repositories collect data, without any assessment of the quality or legitimacy of that data, they help perpetuate the inequities that harm under-served consumers.

Some have attempted to mitigate bias in our markets by moving toward automated systems lulled by the myth that data is blind. Data is not blind, nor is it harmless. It can be dangerous and toxic particularly when it manifests the discrimination inherent in our systems. Researchers at Berkeley have found that FinTech lenders that rely on algorithms to generate decisions on loan pricing discriminate against borrowers of color because their systems "have not removed discrimination, but may have shifted the mode."[19] It is estimated that borrowers of color are being overcharged by $250 million to $500 million per year just in the FinTech space alone. The data gleaned from credit reporting agencies that go into the credit scoring algorithms do not exist in isolation. Each piece of information has appended to it other bits of data that is inherently connecting risk to race. In essence, these data systems manifest systemic and institutional racism.

Credit repositories should adjust their systems and practices to account for how discrimination impacts consumers. For example, there is clear evidence that subprime loans were targeted toward borrowers of color who qualified for prime credit and that these borrowers faced higher instances of delinquency and default because they received unstainable subprime loans. There is also clear evidence of a pattern of discriminatory pricing behavior toward borrowers of color[20]. However, settlements for consumers experiencing discrimination or predatory lending typically did not include having their credit information corrected. When settlements did call for this correction, many victims of discrimination could not be found to take advantage of the correction. This glaring oversight calls for the development of a mechanism to mitigate discrimination in the marketplace within our credit reporting system.

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[18] Collins, Chuck, Dedrick Asante-Muhammed, Emanuel Nieves, Josh Hoxie. The Ever-Growing Gap. Institute for Policy Studies, August 8, 2016. Available at: https://ips-dc.org/wp-content/uploads/2016/08/The-Ever-Growing-Gap-CFED_IPS-Final-2.pdf

[19] Bartlett, Robert P. and Morse, Adair and Stanton, Richard H. and Wallace, Nancy E. 2017. *Consumer Lending Discrimination in the FinTech Era*. UC Berkeley Public Law Research Paper. Available at SSRN: https://ssrn.com/abstract=3063448 or http://dx.doi.org/10.2139/ssrn.3063448

[20] See *United States v. Countrywide, United States, et al. v. Wells Fargo, United States v. Suntrust Bank, United States v. PrimeLending, United States v. National City Bank, United States v. Sage Bank*, and more at https://www.justice.gov/crt/recent-fair-lending-cases-0 and https://www.justice.gov/crt/housing-and-civil-enforcement-section

System Favors Creditors Over Consumers

Credit repositories adopt policies and procedures that favor the creditor over the consumer. While reporting agencies do have mechanisms that allow consumers to dispute information, the system is designed to merit creditors over consumers. Even when consumers provide proof that a debt is in error, the reporting agencies rely upon the creditor to conduct an investigation to determine if the creditor has made a mistake. Abusive and predatory lenders have an incentive to report erroneous information, yet the reporting agencies take their work over that of the consumer. All the creditor need do is assert that the alleged debt is owed. Since credit modeling agencies like FICO and VantageScore make adjustments in their scoring models based on a disputed record – which could harm the consumer – limiting disputed records should be the major objective of credit repositories.

Moreover, it is extremely difficult for consumers to challenge a false entry after the creditor has asserted or "verified" the charge. Sometimes the only recourse is a legal suit against the creditor which is almost impossible for low-income/low-wealth consumers.

Errors in credit reporting information are common yet it is difficult to correct erroneous information which can be harmful for consumers. In a Federal Trade Commission study, 1 in 4 (25%) consumers indicated that they detected false information on their credit reports[21] that could negatively affect their credit scores.

As described above, certain creditors do not report favorable consumer data to the credit repositories but do report unfavorable data. Another area where this happens is with rental housing payment information which is mostly not captured by repositories. This is unfortunate since rental payment information can be highly predictive of future performance particularly in the mortgage lending context. The Urban Institute completed an analysis[22] which found that credit risk assessments for renters are being conducted improperly, and that by capturing this information, renters could get a boost when they apply for mortgage credit. This could be a tremendous benefit for borrowers who are credit invisible or unscore-able. Less than 1% of credit files contain rental payment information. TransUnion, Equifax and Experian will include rental payment entries if they receive the data. It is imperative, given the positive benefit many consumers can receive from the reporting of rental payment information, that a system for easily tracking and reporting this data is developed. Simultaneously, we must create increased protections for tenants so they are not taken advantage of by unscrupulous actors.

Currently, our credit reporting system rates consumers, placing the onus for performance on them. The system does not rate creditors, leaving them off of the hook for discriminatory, fraudulent, and

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[21] See Federal Trade Commission study at https://www.ftc.gov/news-events/press-releases/2013/02/ftc-study-five-percent-consumers-had-errors-their-credit-reports. February 11, 2013.

[22] Goodman, Laurie, Jun Zhu, Rental pay history should be used to asses the creditworthiness of mortgage borrowers, Urban Institute, April 17, 2018. Available at: https://www.urban.org/urban-wire/rental-pay-history-should-be-used-assess-creditworthiness-mortgage-borrowers

other poor behavior. The discriminatory, fraudulent or harmful behavior of the creditor is incorrectly reflected in the consumer's credit data.

Solutions

The credit reporting system must be revamped to merit consumers and creditors equally. The current landscape, which favors creditors to the detriment of consumers, must end. Creditors have little incentive to correct false information since they know credit repositories will take their word in the end and will solely rely on the creditor to conduct an investigation.

Discrimination, fraud, abuse and other harmful acts must be mitigated in consumer credit data. Credit repository agencies should change their contracts to require information providers to immediately correct consumer information if those entities have been found liable for civil rights, abuse, fraud or other violations or have entered into agreements to correct issues related to these practices. Credit repository agencies should also "turn off" negative entries that might be the result of discrimination, fraud, abuse, etc.

Rental housing payments should be reflected in the credit repository system. This must be coupled with tenant protection laws to curtail fraud and abuse.
Credit repositories can work with technology firms to provide a low-cost, scalable solution to facilitate the reporting of this data which can benefit millions of consumers. At the same time, lawmakers must step up tenant protections to curtail abuse in the rental market.

If a provider is not reporting positive data, negative data emanating from that provider must not be captured. Credit repositories should reject any negative data that is sourced from a creditor that does not report positive payment information.

Credit modelling agencies must continually test their systems for discriminatory impacts and correct the systems to lessen harmful effects. Credit scoring mechanisms can project the discrimination that is manifest in our marketplace. Algorithms are not color-blind or innocuous. They can, in many cases, make discrimination easier. This means that credit modelers must conduct disparate impact analyses to test for discriminatory effects and train their algorithms to adopt less discriminatory alternatives.

NCLC

NATIONAL
CONSUMER
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Advancing Fairness
in the Marketplace for All

Testimony before the

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON FINANCIAL SERVICES

Regarding

"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"

February 26, 2019

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Testimony of Chi Chi Wu, National Consumer Law Center
Before the U.S. House of Representatives Committee on Financial Services
regarding
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
February 26, 2019

Introduction and Summary

Chairwoman Waters, Ranking Member McHenry, and Members of the Committee, thank you for inviting me to testify today regarding consumer credit reporting and the need for reform. I offer my testimony here on behalf of the low-income clients of the National Consumer Law Center.[1] NCLC has long advocated for stronger laws and regulation to ensure accuracy and fairness in the U.S. credit reporting system and to reform the Big Three credit bureaus (Equifax, Experian and TransUnion), known as the nationwide consumer reporting agencies ("CRAs") under the Fair Credit Reporting Act (FCRA).

NCLC has testified many times before Congress, including before this Committee, on the need for reform of the credit reporting system to address issues such as:

- unacceptable error rates and the myriad types of systemic inaccuracies in credit reports;
- the travesty of the automated dispute system used by the credit bureaus;
- the absurdity that credit reports and scores treats consumers who have fallen on hard times as irresponsible deadbeats;
- systemic racial disparities in credit scoring;
- the unfair impact of medical debt on credit reports; and
- the problems with use of credit reports for employment purposes.[2]

These are all topics we once again discuss, because none of them have been adequately addressed despite decades of efforts by federal and state regulators, state legislatures, and consumer advocates. Moreover, we added a new problem to address in 2017, the deficiencies in data security that led to the massive Equifax data breach, which also has not yet been adequately addressed.

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[1] The National Consumer Law Center is a nonprofit organization specializing in consumer issues on behalf of low-income people. We work with thousands of legal services, government and private attorneys, as well as community groups and organizations, from all states who represent low-income and elderly individuals on consumer issues. As a result of our daily contact with these advocates, we have seen many examples of the damage wrought by abuses from credit reporting agencies from every part of the nation. It is from this vantage point that we supply these comments. *Fair Credit Reporting* (9th ed. 2017) is one of the eighteen practice treatises that NCLC publishes and annually supplements. This testimony was written by Chi Chi Wu.

[2] *See, e.g.,* An Overview of the Credit Reporting System: Hearing Before the Subcomm. on Fin. Inst. and Consumer Credit of the H. Comm. on Fin. Servs., 113th Congr. (2014) (testimony of Chi Chi Wu); Use of Credit Information beyond Lending: Issues and Reform Proposals: Hearing Before the Subcomm. on Fin. Inst. and Consumer Credit of the H. Comm. on Fin. Servs., 113th Congr. (2010) (testimony of Chi Chi Wu).

A. Too Big, Yet Failing

Credit reports and credit scores play a crucial role in consumers' lives. They determine a consumer's ability to obtain credit and the amount they have to pay for it; whether they can buy a house or rent an apartment; and whether and at what price they can obtain insurance. Credit reports and credit scores can even affect a consumer's ability to find a job. It is no exaggeration to say that a credit report can make or break a consumer's financial life.

Yet unacceptable levels of inaccuracies in credit reports persist, affecting tens of millions of Americans. These errors can cost a consumer thousands of dollars in higher-priced credit, or worse yet, result in the denial of a job, insurance coverage, an apartment rental, the ability to open a small business, or to buy a house.

As we know, the definitive Federal Trade Commission (FTC) study on credit reporting errors found that 1 in 5 consumers have verified errors in their credit reports, and 1 in 20 consumers have errors so serious that they would be denied credit or need to pay more for it.[3] With an estimated 208 million Americans in the credit reporting system,[4] this means that 42 million consumers have errors in their credit reports, and 10 million have errors that can be life altering. Another indication of the massive accuracy problems is the fact that credit reporting and other consumer reporting problems are often the top category of complaints to the Consumer Financial Protection Bureau (CFPB), amounting to over 380,000 since July 2011.[5] Three-quarters of those complaints (or about 285,000) involve Equifax, Experian, or TransUnion.[6]

This level of errors and inaccuracy is unacceptable for an industry so important to the financial lives of Americans. We would not be satisfied with this failure rate for other critical industries – imagine if 5% of automobiles spontaneously exploded or 5% of airplanes fell out of the sky? Yet after 50 years of advocacy, legal changes, regulation, and enforcement, we are still faced with a fundamentally flawed credit reporting system. And it's not just the financial impact – these credit histories are our financial reputations. To paraphrase Shakespeare "Who steals my purse steals trash" but "he that filches from me my good name ... makes me poor indeed."[7]

To understand why the credit reporting system is so dysfunctional, we must always keep in mind two critical facts: (1) credit bureaus are entirely private companies that are publicly traded, which means their highest duty is to shareholder profit, not the public good or the American consumer; and (2) the paying clients of credit bureaus are not consumers, but the creditors and debt collectors who furnish or use the information contained in the credit bureaus' databases.

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[3] Federal Trade Comm'n Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (Dec. 2012).
[4] Consumer Financial Protection Bureau, Consumer Response Annual Report January 1 – December 31, 2017 (March 2018), at 13, http://bit.ly/2TiROLR.
[5] *Id.* at 8; Consumer Financial Protection Bureau, Complaint snapshot: Mortgage (January 2019), at 16-17, https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/cfpb_complaint-snapshot-mortage_2019-01_liwsYNV.pdf (106,301 complaints from January 2018 to October 2018).
[6] Consumer Financial Protection Bureau, Consumer Response Annual Report January 1 – December 31, 2017 (March 2018), at 15, http://bit.ly/2TiROLR.
[7] Shakespeare, Othello.

The Equifax data breach in mid-2017 made many policymakers and Americans realize how consumers are the commodity of the credit bureaus, not the customers. Unlike most industries, we cannot vote with our feet when the credit bureaus fail to respond to our complaints and problems. Indeed, two years after the Equifax data breach, every single American consumer who wants credit still needs to deal with Equifax.

B. A Half Century Battle for Fair Treatment

Consumer advocates, members of Congress, state and federal regulators and private consumer attorneys have all been battling the credit bureaus for fair treatment for over 50 years. In 1968, Senator William Proxmire, often considered the father of the FCRA, explained the need to regulate the credit reporting industry as follows:

> The increasing volume of complaints makes it clear that some regulations are vitally necessary to insure that higher standards are observed with respect to the information in the files of commercial credit bureaus. I cite what I consider to be the three most important criteria for judging the quality of these standards. They are first, confidentiality; second, accuracy; and third, currency of information.
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> * * * *
>
> There are many varieties of inaccurate information, but I shall mention only two. One is the case of mistaken identity, where two individuals with the same names are confused, and the deserving individual is denied credit because of something done by the other person.[8]

Fifty years later, the inaccurate information cited by Senator Proxmire as a key problem affecting credit reports still harms too many consumers. We've had 50 years of legislative activity including the FCRA, 50 years of consumer advocacy, and decades of enforcement by federal regulators and state Attorneys General – yet the struggle for consumer justice in credit reporting is far from being achieved. Some of the systemic inaccuracies that pervade the credit reporting system include:

- **Mixed files.** This is the very error cited by Senator Proxmire in 1968, in which information belonging to one consumer is improperly reported in another consumer's credit report. Mixed files are caused by insufficient and overly loose matching criteria, in particularly the practice of matching data based on only 7 out of 9 digits of a Social Security number.
- **Furnisher errors.** Errors in credit reports are often caused by the creditors and debt collectors that provide data to the credit bureaus, known as "furnishers." Common errors include attributing an account or debt to the wrong consumer, incorrectly recording a payment history, or "re-aging" a stale debt past the seven years permitted by the FCRA.
- **Identity theft.** Credit bureaus and furnishers both bear a share of the blame for the fallout from identity theft. The credit bureaus' loose matching procedures contribute to the problem of identity theft, and their data breaches give thieves the tools needed to

[8] 114 Cong. Rec. 24,903 (1968).

commit fraud. When consumers try to fix the aftereffects of identity theft, furnishers sometimes fail to believe them and the credit bureaus take the furnishers' side.

- **Ignoring judgments and legal settlements.** The credit bureaus will retain negative information even after court judgments or legal settlements declare that a consumer doesn't owe a debt.
- **Being declared dead.** In one of the worst types of credit reporting errors, consumers are labeled as "deceased" when consumers are alive and breathing.

One of the key tools developed by Senator Proxmire and the FCRA to combat inaccuracies in credit reports is the consumer's right to dispute errors and the credit bureaus' obligation to conduct a reasonable investigation. Yet the FCRA-mandated dispute system has been transformed into a mockery, as documented by NCLC's 2009 report issued *Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in their Credit Reports*. The report documented how the credit bureaus' entire role in dispute "investigation" was to convey disputes to furnishers through the highly automated e-OSCAR system. This system primarily using shorthand two- or three-digit codes, with, in a minority of instances, up to just a line or two of text. The credit bureaus used the same four or five codes over 80% of the time and failed to send supporting documentation submitted by consumers to furnishers, in clear violation of the FCRA. Workers did not examine documents, contact consumers by phone or email, or exercise any form of human discretion in resolving a dispute.

In addition, our 2009 *Automated Injustice* report documented how credit bureaus are universally biased in favor of furnishers and against consumers in disputes. In a practice known as "parroting," credit bureaus blindly adopt the response of the furnisher without performing any independent review.

In preparation for this hearing, we have released a 10-year update to *Automated Justice*, which is attached to this testimony. Our report *Automated Injustice Redux: Ten Years after a Key Report, Consumers Are Still Frustrated Trying to Fix Credit Reporting Errors* documents how in the intervening decade, there has been some reform, but much more needs to be done. It describes how the CFPB began exercising supervision authority over the credit bureaus and started the difficult task of compelling them to reform their procedures and practices, while a coalition of over 30 state Attorneys General reached a breakthrough settlement with the credit bureaus in 2015, requiring an array of changes.

Despite these very laudable achievements, the credit bureaus and the furnishers that supply them with information still have serious problems in ensuring the accuracy of credit reports, and the dispute process remains ineffective and biased. *Automated Justice Redux* contains story after story from lawsuits and the CFPB Complaint Database to illustrate the frustrations and harms caused to consumers from these problems.

It is well past time for major structural changes to the credit reporting industry. Consumers have waited 50 years for meaningful, real reform. These reforms should include:

- **Right of appeal.** Congress should establish a right for consumers to appeal when they disagree about the results of a dispute. The appeal could either be to an independent unit

in the credit bureau or to a regulator, such as the CFPB or FTC. If the unit is housed within a credit bureau, the unit must have direct and unfettered authority to make independent decisions and not be subject to any restrictions or incentives to process disputes quickly or in favor of furnishers.

- **Stricter matching criteria.** Congress should require the credit bureaus to use stricter matching criteria, including matching information based on all nine digits of the consumer's SSN or eight digits plus full name and address. At a minimum, the CFPB should be required to engage in a rulemaking to impose stricter requirements and generally establishing minimum procedures to ensure "maximum possible accuracy."
- **Sufficient resources and independent review.** Congress should clarify that the credit bureaus must devote sufficient resources and conduct independent analyses in disputes
- **Injunctive relief for consumers**. Congress should give consumers the right to seek injunctive relief compelling credit bureaus to fix a credit report.
- **Provide a public alternative.** Congress should establish a publicly owned alternative for credit reporting. While public agencies are far from perfect, at least they would be responsive to public pressure and government oversight. If commercial credit bureaus are not responsive to a consumer's dispute, the consumer would have the option of having a lender or other user rely on the publicly owned credit bureau. We note that Demos will be coming out with a report proposing a public credit reporting system in the near future.

We note that all but one of the above reforms were included in Chairwoman Waters's bill from the last Congress, the Comprehensive Credit Reporting Reform Act (CCRRA) of 2017, which we strongly supported.[9] We would support similar reforms in an updated CCRRA of 2019, which is currently in draft.

Finally, we note that while CFPB supervision has resulted in meaningful progress toward getting the credit bureaus to improve accuracy and their dispute systems, we are concerned that the Consumer Bureau's efforts may be dialed back because of the change in leadership of the CFPB. We urge Congress to use its oversight role to make sure there is no backsliding of the CFPB's efforts on this issue.

C. The Vicious Cycle Effect of Using the Past to Shape the Future

One of the fundamental flaws of the use of credit scores and credit reports is that it is overly blunt, lumping together negative events caused by very different circumstances. Credit reporting and scoring penalizes consumers who have fallen on hard times through no fault of their own, such as from illness, job loss, victims of fraud, or victims of natural disasters, treating them as irresponsible deadbeats. The most recent example is federal workers and employees of federal contractors affected by the recent government shutdown. Consumers may end up with impaired credit histories due to the financial trauma caused by extraordinary life events such as illness or natural disasters.

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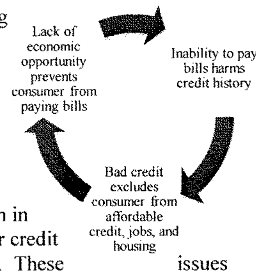
[9] *See* Letter supporting HR 3755, The Comprehensive Consumer Credit Reporting Reform Act of 2017, https://nclc.org/images/pdf/credit_reports/letter-ccra-waters-2017.pdf.

Indeed, a survey by Prudential Financial of federal employees, contractors, or their spouses found that 27% of them missed a mortgage or rent payment during the shutdown, 13% missed a student loan payment, and nearly half fell behind on bills in general.[10] Credit scores will assume that these delinquencies caused by losing a month's income due to political dysfunction should be treated the same, and have the same predictive value, as a default due to poor financial management by the consumer. Yet these are two fundamentally different circumstances, and likely two very different consumers.



More problematically, consumers who have had the bad luck of being affected by illness, natural disasters, fraud, or other extraordinary life events could have their economic lives significantly impaired for seven years (or ten years, in the case of bankruptcies). The credit reporting damage from the life event may shut them out of affordable credit markets, and could cause them to be denied jobs, apartment rentals, or pay hundreds of dollars more in auto insurance premiums. The cumulative impact of these financial calamities could strand a consumer economically for years after the event itself, which in turn makes it more difficult for them to pay their bills and repair their credit standing. This creates a vicious cycle in a consumer's economic life. These issues are discussed in depth in our report, _*Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession*_ (2013).

This vicious cycle effect of using the past to judge the future is also responsible for the stunning racial disparities in credit scores. Study after study has found that African American and Latinx communities have lower credit scores as a group than whites - a list of studies is available in our policy brief, _*Past Imperfect: How credit scores and other analytics "bake in" past discrimination and perpetuate it*_ (2016). Communities of color have lower credit scores as a group, not because they are somehow less responsible, but because credit histories are reflective of the racial economic divide and wealth gap in this country.

Communities of color have less income than white Americans, but it is the disparity in assets that is most stunning: African American families own less than seven cents for every dollar in wealth owned by white families, while Latinx households own less than eight cents for every dollar of white wealth.[11] With fewer assets to draw on, people of color – and the friends and family to whom they might turn – are far less able to cushion the blow of financial calamities. This lack of a cushion damages their credit histories, which in turn impedes their access to employment, housing (both rental and homeownership), insurance, and of course, affordable credit. The historic and current discrimination that is reflected in credit histories makes it more difficult for communities of color to move ahead.

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[10] Lananh Nguyen, How the Last Shutdown Affected Federal Workers' Household Finances, Bloomberg News, Feb. 12, 2019, www.bloomberg.com/news/articles/2019-02-12/workers-missed-bills-burned-savings-during-government-shutdown.
[11] Amy Traub, et al., Demos and Institute for Assets & Social Policy, Brandeis University, The Racial Wealth Gap: Why Policy Matters, Mar. 10, 2015, at 1, www.demos.org/sites/default/files/publications/RacialWealthGap_1.pdf.

We need a better way to judge consumers. We need a system that can distinguish between consumers who are truly irresponsible and those who simply fell on hard times. We need a system that can take into account extraordinary life events. And, we need a system that does not further widen the economic chasm between whites and communities of color.

Part of the solution is to require the credit bureaus be more precise and distinguish between consumers who have an extraordinary life event versus those who are truly irresponsible. Some proposals to do so would be:

- **Relief for federal workers/contractors and natural disaster victims.** The credit bureaus should be prohibited from reporting adverse information caused when the consumer is affected by economic dislocation on a mass scale, such as the recent government shutdown or a federal or state declared natural disaster. Congress must take action on this issue, as the credit bureaus have ignored or rejected requests by consumer and advocacy groups to voluntarily provide credit reporting relief to federal workers, federal contractors, and natural disaster victims.[12]

- **Help victims of abusive lending practices.** Consumers are unfairly penalized when they have been the victim of abusive practices, such as predatory mortgages or student loans resulting from for-profit school fraud. Adverse information related to these abuses should be removed from credit reports.

- **Limit reporting of medical debt.** Medical debt is one of the most unfair forms of negative information in credit reports, as discussed in Section F below, and the reforms discussed in that section would alleviate some of the harm for consumers who have experienced financial distress from illness and high healthcare bills.

The harm from negative credit reporting would also be reduced by prohibiting non-credit uses of credit information. As discussed in Section G, there is no good evidence for the use of credit reports in employment, and its use in insurance is also highly problematic.[13]

- **Limit non-credit uses of credit reports and scores.** Severely restrict the use of credit reporting information in employment and ban it for insurance.

Another part of the solution is to reduce the time limits that negative information can be reported. This would lessen the amount of time that adverse information can harm consumers. There is nothing special about the current seven-year time limit for negative information under

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[12] *See* Letter urging credit bureaus to provide credit reporting relief to federal workers affected by the shutdown, Jan. 18, 2019; Letter urging credit bureaus to provide credit reporting relief to employees of federal contractors and small businesses affected by the shutdown, Jan. 25, 2019; Letter urging credit bureaus to provide credit reporting relief to consumers affected by natural disasters, Jan. 18, 2019. All letters available at https://www.nclc.org/issues/credit-reports.html => Credit Report Letters.

[13] For a discussion of why the use of credit scores in insurance is unfair, *see* Stephen Brobeck, et al., Consumer Federation of America, The Use of Credit Scores by Auto Insurers: Adverse Impacts on Low- and Moderate-Income Drivers (Dec. 2013), https://consumerfed.org/pdfs/useofcreditscoresbyautoinsurers_dec2013_cfa.pdf.

the FCRA. It is certainly not universal. For example, the time limit for negative information in Sweden – a country that is as economically vibrant and prosperous as the United States if not more so – is three years.[14]

- **Shorter time limits for negative information.** The FCRA should be amended to shorten the time periods for negative information to four years (seven years for bankruptcies).

All but the first of these reforms were included in the CCRRA introduced in the last session of Congress, which we supported. The first item, relief for federal workers and contractors, is the subject of the Chairwoman Waters's draft Protecting Innocent Consumers Affected by a Shutdown Act, which we also support.

D. Addressing credit invisibility: the devil is in the details

Another perplexing phenomenon of the credit reporting system is "credit invisibility." According to the CFPB, 26 million Americans (or about 1 in 10) do not have a credit history, and another 18 million are unscorable because their histories are too scant ("thin") or old.[15] The CFPB also found that African American, Latinx, and low-income consumers are more likely to have no credit history or to be unscorable.

Policymakers, advocates, and industry members have all proposed solutions to credit invisibility, including promoting the use of alternative sources of data. In turn, we have urged a cautious and thoughtful approach in developing solutions. As with so many aspects of credit and financial services, "the devil is in the details."

One of the most critical points in discussing alternative data is that the type of data matters. Some data shows promise, other data is a mixed bag, and some data is harmful enough that it should not be used.

- **Gas and electric utility data would likely be harmful.** Most gas and electric companies currently only report accounts on traditional credit reports when they are very seriously delinquent. "Full file" monthly reporting of gas and electric bill payment data has the potential to give millions of low-income consumers bad or worse credit scores by adding payments that are only 30 or 60 days late. Reporting of late payments could also undermine state consumer protections, such as prohibitions against wintertime shut offs for vulnerable consumers, including the elderly.

[14] Marieke Bos and Leonard Nakamura, Federal Reserve Bank of Philadelphia, Working Paper No. 12-19/R, Should Defaults Be Forgotten? Evidence from Quasi-Experimental Variation in Removal of Negative Consumer Credit Information, Apr. 2013, at 1, www.philadelphiafed.org/research-and-data/publications/working-papers/2012/wp12-29R.pdf.

[15] Consumer Financial Protection Bureau, Data Point: Credit Invisibles, May 2015, http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf.

For these reasons, NCLC and several dozen other consumer, utility rights, and other advocacy groups have consistently opposed the "Credit Access and Inclusion Act."[16] We also oppose that bill because it would preempt state consumer protection laws protecting the privacy of utility customers and hinder states from regulating tenant screening agencies.

- **Rental data could be promising with protections.** Traditionally, rental data is only reported when a tenant is so delinquent that the account is sent to a debt collector. Efforts to add positive data appear to be promising, especially those efforts that do not report late payments prior to the debt being sent to collections. Also, tenants who invoke their rights under state or local laws to withhold rent due to poor conditions should not be penalized.

- **Subprime credit information would hurt consumers**. Payday loans and other forms of subprime credit are often not reported on traditional credit reports. Adding these types of credit could damage the credit records of these borrowers. High-cost credit is often designed to lead to a cycle of debt, and even merely using a subprime form of credit can negatively affect a credit score.

- **Telecommunications data – the jury's still out.** Unlike regulated electric and gas service, telecomm (cell phone and cable) industries have fewer consumer protections that could be undermined by monthly reporting. Outstanding questions include the level of accuracy of the data and the impact on consumers who dispute over issues such as cramming and questionable surcharges. Consumers may also not be aware that their cell phone and cable payment histories are being supplied to traditional or alternative reporting agencies.

- **Bank account transaction/cashflow data looks promising but carries risks**. Bank account transaction data appears to be a promising form of alternative data. First, it incorporates an analysis of ability to repay, since it includes both income and expense information. Second, it may avoid the need to rely on long historical timeframes and thus not consider negative marks from economic hardships from several years ago. Also, it might be able to show when there has been a healthy sustained recovery from an extraordinary life event such as a job loss or illness.

  However, bank account transaction data does raise security and privacy issue, as it could be used in ways consumers do not expect or misused to ensure ability to collect, not ability to repay. Lenders could focus on the timing of when income comes in and can be grabbed, not whether consumers have sufficient residual income to afford a payment. Bank accounts include sensitive information such as debit card purchases showing where the consumer shops. Use of this data must be monitored for appropriate use. It should only be used when the consumer has knowingly and actively consented to its use, and it must be protected from access by collectors and others who would use it against consumers

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[16] Consumer opposition letter to H.R. 435, Credit Access and Inclusion Act, Dec. 8, 2017, https://nclc.org/images/pdf/legislation/letter-oppose-hr435-hfsc.pdf.

The manner in which alternative data is used is important. For example, using alternative data to create special scores for otherwise unscorable consumers is preferable to the wholesale addition of the same data to traditional credit reports, where it might damage consumers who already have a thick file and credit score. Also, voluntary opt-in efforts for alternative data do not raise the same concerns about wholesale addition.

A number of alternative scoring products have recently been unveiled that hold promise but must also be monitored. UltraFICO is a voluntary opt-in product that will rely on bank account transaction information from Finicity, a data aggregator working in partnership with Experian.[17] UltraFICO will only be used to enhance consumer's credit scores to see whether a denied application can be approved or a lower rate can be offered. ExperianBoost considers utility payments, but does so by reviewing bank account transactions that do not get included in traditional credit reports and is also voluntary opt-in.[18] FICO XD similarly is a second chance score using mostly telecom data from that National Consumer Telecom and Utilities Exchange, which is not included in traditional credit reports.[19]

Another issue with new promising products might be to get lenders to accept them. As discussed in Section F, lenders have not even adopted FICO 9 or VantageScore models that simply lessen the impact of medical debt. There may need to be efforts to encourage lenders to consider alternative data when it is more predictive or beneficial to consumers than traditional credit reporting.

E. The Unfinished Business of the Equifax Data Breach

It's been 17 months since the Equifax data breach became public, and nearly two years since it happened. It was arguably the worst data breach in American history, not only because it affected 148 million Americans or one in two American adults, but it also involved some of the most critical personal information we have – SSNs (which are the golden keys for identity thieves) dates of birth, and in some cases drivers' license numbers. And despite much outrage and extensive media coverage, American consumers are nowhere close to being made whole or made safe in the aftermath.

Notwithstanding numerous hearings in both the House and the Senate, the only measure taken by the last Congress was to include a provision in the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) of 2018 providing free security freezes[20] – something that state legislatures were already well on their way to doing. And the federal security freeze came at the high cost of preempting those state laws, some of which were more protective of consumers in that they applied freezes to employment and tenant screening use of credit reports.

[17] https://www.fico.com/ultrafico/.
[18] https://www.experian.com/blogs/ask-experian/introducing-experian-boost/ (Dec. 18, 2018).
[19] https://www.fico.com/en/products/fico-score-xd.
[20] Pub. L. No. 115-174,§ 301(a), codified at 15 U.S.C. § 1681c-1(i).

Congress must do better. It should:

- **Give the CFPB clear supervision authority** under the Gramm Leach-Bliley Act and the FCRA over data security at the credit bureaus. The CFPB should be given this authority so that it has a clear mandate to supervise the credit bureaus regarding this area.
- **Impose significant and hefty penalties** when the negligence of the credit bureaus leads to data breaches.
- **Freeze credit reports by default** to prevent identity theft and give consumers more control over their credit reports. The switch for access to our credit reports should automatically be set to "off." We as American consumers should get to decide when to turn it "on." And in the process of turning the switch on, credit bureaus and other CRAs should be required to verify the identity of the consumer to make sure it is really them.[21]

Finally, we note that one of the root causes of the Equifax data breach was the company's failure to adequately invest in its technology and computer systems. To quote from a report from the House Oversight Committee from the last Congress:

> Equifax's aggressive growth strategy and accumulation of data resulted in a complex IT environment. Equifax ran a number of its most critical IT applications on custom built legacy systems. Both the complexity and antiquated nature of Equifax's IT systems made IT security especially challenging. Equifax recognized the inherent security risks of operating legacy IT systems because Equifax had begun a legacy infrastructure modernization effort. This effort, however, came too late to prevent the breach.[22]
>
> * * * *
>
> Legacy technology is both a security issue and a hindrance to innovation, and legacy systems are tough to secure because they are often extremely difficult to patch, monitor, or upgrade. Equifax ran a number of its business critical systems on legacy infrastructure, including the ACIS system compromised by attackers during the 2017 data breach.[23]

These paragraphs are absolutely key to explaining both the Equifax data breach and the problems with accuracy described above. A modern technology company needs to adequately invest in systems for both data security and to keep the data accurate and complete. Yet Equifax failed to do so. Indeed, the House Oversight report documents that the ACIS system that was breached by hackers was built in ***the late 1970s*** to implement compliance with the FCRA.[24]

The negligence that caused the security breach is the same negligence that fails to establish adequate quality control systems for accuracy. And it is absolutely critical to realize Equifax is not alone, it was just the unlucky CRA that got caught first – Experian and TransUnion suffer from the same deficiencies. In fact, Experian had its own large-scale data breach first in 2015,

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[21] Note that there was a bill introduced in the Senate during the last Congress that included a credit freeze by default. S.2362 - Control Your Personal Credit Information Act of 2018 (115 Congr.)(Sen. Reed).
[22] H. Comm. on Oversight and Gov't Reform, 115th Congr., The Equifax Data Breach: Majority Staff Report, December 2018, at 4.
[23] *Id.* at 71.
[24] *Id.* at 72

although it was small by Equifax standards, affecting "only" 15 million consumers.[25] The credit bureaus share many of other antiquated platforms, such as the 25-year old e-OSCAR system built to handle disputes.

For data technology companies to have antiquated legacy systems for its IT infrastructure would be laughable if it weren't so tragic. It shows a shockingly negligent attitude of cutting corners and underinvesting in compliance systems – the same cutting corners evident in their dispute processing. For decades, the credit bureaus have abused consumers, enabled by lack of oversight and the dysfunctional market forces. All three credit bureaus must be required to do much better to keep our data both safe and accurate.

F. Medical Debt Unfairly Penalizes Consumers

The impact of medical debt on credit reports is nothing short of stunning. Medical bills result from services that are frequently involuntary, unplanned, and unpredictable, and for which prices quotes are rarely provided. Yet as the CFPB found, medical debt represents ***half*** of all debt collection entries that appear on credit reports, and nearly one in five credit reports contains a medical debt item.[26]

Moreover, there is strong evidence that medical debt items are not an accurate reflection of the creditworthiness of the consumer. The CFPB found that medical debt unfairly penalizes a consumer's credit score by 10 points, and for a medical debt collection item that is subsequently paid, by up to 22 points (*i.e.* the consumer's credit score should actually 10 points or 22 points higher).[27] It concluded that "[c]redit scoring models which differentiate medical collections from other collections are likely to more accurately reflect the actual creditworthiness of consumers."[28]

In response to this study and other evidence, FICO modified its latest scoring model, FICO 9, so that it does not consider paid collection items (both medical and non-medical) and gives less weight to unpaid medical debts.[29] VantageScore made similar changes. Currently, these changes do help not mortgage applicants, because Fannie Mae and Freddie Mac do not use these models

[25] *Id.* at 18.
[26] Consumer Fin. Prot. Bureau, Consumer Credit Reports: A Study of Medical and Non-Medical Collections 5 (Dec. 11, 2014), www.consumerfinance.gov (finding that 52.1% of debt collection tradelines on credit reports were for medical debt).
[27] Consumer Fin. Prot. Bureau, Data Point: Medical Debt and Credit Scores (May 2014), www.consumerfinance.gov. *See also* Consumer Fin. Prot. Bureau, Consumer Credit Reports: A Study of Medical and Non-Medical Collections 7, 28 (Dec. 11, 2014), www.consumerfinance.gov (consumers whose credit reports show only collection items consisting of medical bills are more reliable payers, owe less, and have more available credit).
[28] *Id.*at 51–52.
[29] FICO, Understanding FICO Scores 8, www.myfico.com.

right now, but there is a rulemaking underway that may change this.[30] However, most other lenders, such as credit card issuers and auto lenders, also do not use these updated models.[31]

A more effective solution than changing scoring models would be to require the credit bureaus to remove any paid or settled medical debt. Thus, we have previously supported the Medical Debt Relief Act and the medical debt provisions of the CCRRA, both of which would require removal of paid or settled medical debt. They would also prohibit credit bureaus from including any medical debt on a credit report until 180 days after the bill (extended to 1 year in the current draft of the CCRRA), giving consumers time to resolve complex, confusing medical billing issues.

G. Use of Credit Reports in Employment Is Unreasonable and Discriminatory

The use of credit reports in employment is a practice that is harmful and unfair to American workers. Despite many good reasons to avoid engaging in this practice, about half of employers (47%) do so today,[32] a dramatic increase from only 19% in 1996.[33] One survey reported that 1 in 10 respondents who were unemployed had been informed that they would not be hired for a job because of the information in their credit reports.[34]

The use of credit reports in employment should be severely restricted for the following reasons.

- **Credit checks create a fundamental "Catch-22" for job applicants.** A simple reason to oppose the use of credit history for job applications is the sheer absurdity of the practice. Simply put, workers who lose their jobs are likely fall behind on paying their bills due to lack of income. If credit reports are used against them, these workers now find themselves shut out of the job market because they're behind on their bills. This leads to financial spiraling effect: the worse the impact of unemployment on their debts, the harder it is to get a job to pay them off.
- **The use of credit checks in hiring discriminates against African American and Latinx job applicants.** As discussed above, study after study has documented how, as a group, African Americans and Latinx consumers have lower credit scores as a group than whites. Since credit scores are a translation of the information in credit reports, that means these groups fare worse when their credit reports are considered in employment.

[30] Federal Housing Finance Agency, Validation and Approval of Credit Score Models, 83 Fed. Reg. 65575 (Dec. 21, 2018) (proposed rule to implement Section 310 of EGRRCPA requiring Fannie Mae and Freddie Mac to consider new scoring models).
[31] Patricia Hasson, New credit score models won't work if lenders ignore them, American Banker - BankThink, June 28 2017 ("So far, lenders are continuing to rely on older credit models that are less predictive and penalize consumers for positive behaviors like paying off collection accounts").
[32] Society for Human Resource Management, Background Checking—The Use of Credit Background Checks in Hiring Decisions, July 19, 2012, at https://www.shrm.org/hr-today/trends-and-forecasting/research-and-surveys/pages/creditbackgroundchecks.aspx.
[33] Matt Fellowes, *Credit Scores, Reports, and Getting Ahead in America*, Brookings Institution, May 2006 at n.3 (citing 1996 data from the Society for Human Resource Management).
[34] Amy Traub, Discredited: Employment Credit Checks Keep Qualified Workers Out of a Job, 2012, www.demos.org/discredited-how-employment-credit-checks-keep-qualified-workers-out-job.

- **Credit history does not predict job performance.** Credit reports were designed to predict the likelihood that consumers will miss a payment on a loan, not whether they will steal or behave irresponsibly in the workplace. The overwhelming weight of evidence is that people with impaired credit histories are ***not*** more likely to be bad employees or to steal from their employers. The earliest study on this issue concluded there is no correlation between credit history and an employee's job performance,[35] while a more recent study from 2011 also failed to find a link between low credit scores and theft or deviant behavior at work.[36]
- **As discussed in Section A, credit reports suffer from unacceptable rates of inaccuracy, especially for a purpose as important as use in employment.**

Fundamentally, the issue at stake is whether workers are fairly judged based on their ability to perform a job or whether they're discriminated against because of their credit history. Congress should ban the use of credit reports for employment purposes, with only very limited exceptions for a few specific job positions.

H. Conclusion

American consumers deserve a credit reporting system that is accurate, fair, and just. Helping consumers obtain such a system also helps the American economy. To achieve these goals, Congress should:

1. Pass an updated version of the Comprehensive Consumer Credit Reporting Act (such as the draft currently being discussed) that includes:

- providing consumers with a right of appeal for credit reporting disputes;
- requiring stricter matching criteria or a CFPB rulemaking that imposes such criteria and establishes minimum procedures to ensure maximum possible accuracy;
- clarifying that the credit bureaus must devote sufficient resources and conduct independent analyses in disputes;
- providing consumers with a right to seek injunctive relief compelling credit bureaus to fix a credit report;
- shortening time limits for negative information to four years (seven years for bankruptcies);
- requiring the credit bureaus to remove any paid or settled medical debt and prohibiting them from including medical collections on credit reports until after one year from the bill;

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[35] Jerry K. Palmer and Laura L. Koppes, *Further Investigation of Credit History as a Predictor of Employee Turnover*. Presentation to the American Psychological Society, 2003. *See also* Press Release, Society for Industrial and Organizational Psychology, Credit History Not a Good Predictor of Job Performance or Turnover, January 16, 2004, http://www.newswise.com/articles/credit-history-not-a-good-predictor-of-job-performance-or-turnover (summarizing study by Drs. Palmer and Koppes).
[36] Jeremy B. Bernerth et al, *An Empirical Investigation of Dispositional Antecedents and Performance-Related Outcomes of Credit Scores*, Journal of Applied Psychology, Oct. 24, 2011.

- requiring the removal of adverse information resulting from predatory mortgages or private student loans resulting from for-profit school fraud; and
- severely restricting the use of credit reports in employment and banning the use of credit reporting information in insurance.

2. Congress should provide credit reporting relief for federal workers, federal contractors and small businesses affected by government shutdowns (such as the draft "Protecting Innocent Consumers Affected by a Shutdown Act" being discussed), as well as natural disaster victims.

3. With respect to data security for the credit bureaus, Congress should:

   - give the CFPB clear supervision authority over data security at the credit bureaus;
   - impose significant and hefty penalties when the negligence of credit bureaus leads to data breaches; and
   - freeze credit reports by default to prevent identity theft and give consumers more control over their credit reports.

4. Congress should establish a publicly owned alternative for credit reporting.

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Ten Years after a Key Report, Consumers Are Still Frustrated Trying to Fix Credit Reporting Errors

February 2019

By

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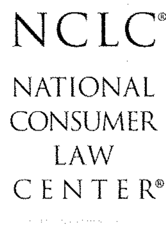

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Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low income and other disadvantaged people, including older adults, in the United States. NCLC's expertise includes policy analysis and advocacy, consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitive practices, help financially stressed families build and retain wealth, and advance economic fairness.

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EXECUTIVE SUMMARY

Ten years ago, the National Consumer Law Center (NCLC) issued *Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in their Credit Reports*, the landmark report on the serious dysfunctions in the American credit reporting system. Since then, the Consumer Financial Protection Bureau (CFPB) began exercising supervision authority over the Big Three credit bureaus (Equifax, Experian and TransUnion), and started the difficult task of compelling them to reform their procedures and practices. A coalition of more than 30 state Attorneys General reached a breakthrough settlement with the credit bureaus in 2015, requiring an array of reforms.

Despite these very laudable achievements, the credit bureaus and the companies that supply them with information still have serious problems in ensuring the accuracy of credit reports, affecting millions of American consumers. The dispute process required by the Fair Credit Reporting Act (FCRA) that was intended to fix these problems remains ineffective and biased.

This report provides a 10-year update to NCLC's 2009 *Automated Injustice* report. It uses stories from lawsuits and the CFPB Complaint Database to illustrate that American consumers still suffer from credit reporting abuses, such as:

- having their credit files "mixed" with the wrong person,
- negative information that remains even after court judgments or legal settlements declare that a consumer doesn't owe a debt,
- the after-effects of identity theft when credit bureaus and creditors don't believe the victim, and
- being labeled as dead when they are alive and breathing.

This report also documents the massive number of credit and consumer reporting complaints to the CFPB, over 380,000 since July 2011, with over three quarters or about 285,000 involving Equifax, Experian, or TransUnion. Credit and consumer reporting is often the top category of complaints to the CFPB, especially during the last two years.

Part of the problem is that some furnishers (creditors or other companies that supply information to the credit bureaus) still conduct pro forma, perfunctory investigations into credit reporting disputes and ignore CFPB guidance to consider critical documents and information. Another part of the problem is that the credit bureaus still fail to conduct their own independent investigations and continue to blithely accept what a furnisher tells them, despite evidence such as court judgments or police reports to the contrary.

This report makes recommendations to Congress and regulators detailing the large-scale changes necessary to finally end these problems, including:

- a right of appeals for consumers when they disagree with a furnisher or credit bureau about the results of a dispute investigation,
- stricter matching criteria to ensure that information belonging to one consumer does not get wrongfully mixed into the credit report of another consumer,

- a requirement that credit bureaus devote sufficient resources to the dispute system and a clarification that they must conduct independent analyses instead of simply parroting what furnishers tell them,
- a right to seek court orders to compel credit bureaus to fix reports,
- more control for consumers by requiring that they must proactively authorize the use of their credit reports for credit, insurance and other uses, and
- a publicly-owned alternative to the credit bureaus.

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I. BACKGROUND

A. Introduction: the importance of credit reports and the unacceptable error rates in them

Credit reports and credit scores play a crucial role in consumers' lives. They determine a consumer's ability to obtain credit and the amount they must pay for it, and whether they can buy a house or rent an apartment. It could even affect a consumer's ability to find a job. Lenders rely on credit reports and credit scores as a primary factor in the decision whether to extend credit and at what price; home and auto insurers decide whether to offer insurance and base their rates on specialized credit scores; and many employers and landlords rely on reports before making decisions about whom to hire or rent to.

With such far-reaching implications, the importance of ensuring maximum possible accuracy in credit reports should be paramount. Yet unacceptable levels of inaccuracies in credit reports persist, affecting tens of millions of Americans. A landmark 2012 study by the Federal Trade Commission (FTC) found that 1 in 5 consumers have verified errors in their credit reports, and 1 in 20 consumers have errors so serious they would be denied credit or need to pay more for it.[1] With an estimated 208 million Americans in the credit reporting system, this means that 42 million consumers have errors in their credit reports, and 10 million have errors that can be life altering.[2]

With an estimated 208 million Americans in the credit reporting system, this means that 42 million consumers have errors in their credit reports, and 10 million have errors that can be life altering.

Furthermore, despite significant reforms in the last ten years and decades of advocacy by consumer groups, systemic inaccuracies still pervade the credit reporting system and the processes for fixing those inaccuracies remain broken and biased. This report reviews the reforms from the last 10 years and documents how problems remain even after valiant efforts by federal and state regulators to fix them. This report also makes policy recommendations for reform, including a dramatically progressive concept of providing a publicly-owned alternative to the credit bureaus.

B. Market failures and commoditized consumers

To understand why problems persist in the credit reporting system, we must always keep in mind a crucial truth: that the paying clients of this industry are *not* consumers, but the creditors and debt collectors who furnish or use the information contained in the credit bureaus' databases. The Equifax data breach in mid-2017, in which that credit bureau allowed hackers to obtain the sensitive personal information of 148 million Americans,[3] made many policymakers and Americans realize how consumers are the commodity of the credit bureaus, not the customers. Unlike most industries, consumers cannot vote with our feet when the credit bureaus fail to respond to our complaints and problems. Indeed, two years after the Equifax data breach, every single American consumer who wants credit still needs to deal with Equifax.

As one Texas consumer who complained to the CFPB in 2015 put it:

> *. . . I 'm tired and beat up from a constant battle for the last few months, against data furnishers that don't report accurate information and the credit bureaus act like we consumers are always wrong and never look further into the issues, but allow this to go on. It seems as though consumers get the short end of the stick because we don't pay for the service like the creditors do.*
>
> *Source:* Excerpted from CFPB Complaint No. 1562377, filed Dec. 5, 2017.
> (This report relies on complaints in the CFPB database, but we have paraphrased some complaints and edited others to remove typographical and grammatical errors.)

It is crucial to remember that consumers are the commodity of the credit bureaus, not the customers. Unlike most industries, consumers cannot vote with our feet when the credit bureaus fail to respond to our complaints and problems.

This truth lies at the heart of the continued failure of our credit reporting system to adequately respond to the interests and complaints of American consumers. The credit reporting system started out rigged and remains rigged, despite heroic efforts as described below at the end of the sentence.

C. Findings of NCLC's 2009 *Automated Injustice* report

In January 2009, the National Consumer Law Center released *Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in their Credit Reports*, its original report on this subject. The 2009 report explained the basic structure of our credit reporting system; how economic forces in that system created and perpetuated inaccuracies in credit reports; and the complete travesty of a system for resolving consumer disputes. That report focused, as this updated report does, on the "Big Three" nationwide consumer reporting agencies—Equifax, Experian, and TransUnion—referred to here as "credit bureaus."

Under the Fair Credit Reporting Act (FCRA), credit bureaus and other consumer reporting agencies must follow "reasonable procedures to ensure maximum possible accuracy."[4] Despite this stringent standard, the 2009 report detailed endemic problems that caused systemic inaccuracies in credit reports, such as:

What is a Consumer Reporting Agency?

The Fair Credit Reporting Act regulates all "consumer reporting agencies," which is a broad definition that encompasses credit bureaus, employment background check companies, check-writing databases, tenant screening companies, and many other types of database companies. The Big Three credit bureaus (Experian, TransUnion, and Equifax) are a subset of consumer reporting agencies referred to in the Act as "nationwide consumer reporting agencies."

Sources: 15 U.S.C. § 1681a(f), 15 U.S.C. § 1681a(p), and 15 U.S.C. § 1681e(b).

- **Mixed Files.** The credit bureaus use insufficient and overly loose matching criteria, in particular the practice of matching data from creditors and debt collectors to consumers' files based on only 7 out of 9 digits of a Social Security number. This leads to one of the worst problems in credit reporting—the "mixed file," where information belonging to one

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consumer is improperly reported in another consumer's credit report. Credit bureaus use these overly loose matching criteria and err on the side of including information because their customers—users of credit reports—would rather have a consumer tagged with false negative information rather than have negative information missing about a consumer.

- **Furnisher Errors.** Errors in credit reports are often caused by the creditors and debt collectors that provide data to the credit bureaus, known as "furnishers." The errors include attributing an account or debt to the wrong consumer, incorrectly recording a payment history, or "re-aging" a debt by reporting an incorrect Date of First Delinquency, which is the trigger for the seven-year period that negative information generally can stay on a credit report.
- **Fallout from Identity Theft.** Credit bureaus and furnishers both bear a share of the blame for the fallout from identity theft. The credit bureaus' loose matching procedures contribute to the problem of identity theft, and their data breaches give thieves the tools needed to commit fraud. When consumers try to fix the aftereffects of identity theft, furnishers sometimes fail to believe them and remove the information. As discussed below, the credit bureaus will always take the furnishers' side when consumers try to remove false information.

What is e-OSCAR?

e-OSCAR is a web-based, automated system that enables furnishers and credit bureaus) to create and respond to consumer credit history dispute. It was created by the Big Three credit bureaus and fourth consumer reporting agency, Innovis.

Source: e-OSCAR, About Us, https://www.e-oscar.org/implementation/about-us.

In addition to requiring maximum possible accuracy, the FCRA has delineated a specific procedure for consumers to dispute the accuracy of information contained in their credit reports. If a consumer disputes an error, the credit bureaus have an obligation to conduct a reasonable investigation, within 30 days, that considers all relevant information supplied by the consumer.[5] As part of that investigation, the CRA must send the furnisher of the disputed information a notice that includes "all relevant information regarding the dispute that the agency has received from the consumer."[6] Despite these specific requirements, the 2009 *Automated Injustice* report documented gross inadequacies in the credit bureaus' dispute processes, including:

- **Insufficient Information Conveyed and Considered in Investigations.** Credit bureaus use the highly automated e-OSCAR system to convey disputes to furnishers, primarily using shorthand two- or three-digit codes, and at most only a line or two of text in a minority of instances. The credit bureaus use the same four or five codes over 80% of the time.
- **Failure to Transmit Information Submitted by the Consumer.** Credit bureaus failed to send supporting documentation submitted by consumers to furnishers, in clear violation of the FCRA.
- **Perfunctory Credit Bureau Investigations.** Credit bureaus limit the role of their employees who handle disputes, or of the foreign workers employed by their offshore vendors, to little more than selecting these two or three digit codes. Workers do not examine documents, contact consumers by phone or email, or exercise any form of human discretion in resolving a dispute.
- **Credit Bureaus Always Side with Furnishers.** Credit bureaus are universally biased in favor of furnishers and against consumers in disputes. In a practice known as "parroting,"

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credit bureaus blindly adopted the response of the furnisher without performing any independent review.

- **Perfunctory Furnisher Investigations.** Furnishers conducted pro forma investigations, doing nothing more than check whether the information in the dispute transmittal form, called an Automated Consumer Dispute Verification (ACDV) form, matched the information in their own computer systems—the very systems that likely caused the error in the first place.

As of January 2009, this sham system meant that no one was really investigating the merits or substance of disputes. After multiple fruitless disputes, some consumers resorted to filing lawsuits in order to have inaccurate information corrected.

As discussed in the next section, much has happened in the nearly ten years since NCLC released *Automated Injustice*. A number of reforms have been imposed on credit bureaus and furnishers with the goal of addressing the problems documented in the report. Despite this, serious and intractable problems remain with accuracy and the dispute process.

II. REGULATORY AND POLICY CHANGES SINCE 2009

Over the ten years since *Automated Injustice* was published, a number of regulatory and enforcement actions have changed the landscape for credit bureaus and furnishers. Federal and state regulators have attempted to address violations of the FCRA, improve the accuracy of credit reports, and provide meaningful reform of the FCRA dispute system

A. Furnisher accuracy and integrity regulations; direct dispute rights

On July 1, 2009, the federal banking regulators and FTC finalized a joint rule implementing the requirements of the Fair and Accurate Credit Transactions Act of 2003 (FACTA) to establish standards for furnishers regarding the accuracy of information and to process disputes sent to them directly.[7] The rule, which was later restated by the Consumer Financial Protection Bureau (CFPB), requires furnishers to establish written policies and procedures for accuracy and integrity, commensurate with the nature, size, complexity, and scope of the furnisher.[8] According to the regulations, appropriate policies under the rule would include maintaining records for a reasonable amount of time, ensuring adequate oversight of service providers, furnishing data in a way that prevents re-aging and mixing of files, and providing sufficient information to tie account data to a particular consumer.[9]

The rule also requires furnishers to investigate disputes that they directly receive from consumers.[10] Neither the accuracy and integrity provision nor the direct dispute right is enforceable through a private right of action,[11] which may be the reason the rule seemed to produce little improvement until the CFPB began supervising furnishers (see pages 8–10).

B. Multistate attorney general settlement

In 2015, a number of state Attorneys General's offices worked together to reform practices at the credit bureaus. Following investigations, two significant settlements were reached. First, the New York Attorney General entered an agreement with Equifax, Experian, and

Transunion.[12] Shortly thereafter a group of Attorneys General from 31 states entered into an "Assurance of Voluntary Compliance" with the credit bureaus, with many similar provisions.[13] Collectively, these agreements require the credit bureaus to implement a number of specific reforms, including:

- **Mixed Files**
  - Credit bureaus will share information with each other when one credit bureau confirms that a consumer's file has been mixed with another person's file and will establish best practices for handling and sharing information about mixed files.
- **Better procedures to monitor furnishers**
  - Credit bureaus must track and compile furnisher dispute statistics and provide the Attorneys General's offices with the names of companies that consistently provide inaccurate information.
  - Credit bureaus will take corrective action against furnishers that fail to comply with data furnishing obligations and dispute investigation requirements.
- **Dispute Process**
  - Credit bureaus will implement escalated handling for disputes involving mixed files, fraud, and identity theft, including assignment to specialized groups with substantial experience in those types of disputes.
  - In the case of a dispute where the credit bureau does not otherwise modify the information as requested by the consumer, the credit bureaus must assign an agent to review a consumer's supporting documentation, who will have discretion to decide to make the change requested by the consumer.
- **Data Reporting Reforms**
  - Credit bureaus must prohibit furnishers from reporting debt that did not arise from a contract or agreement to pay (including tickets and fines) and implement a process to remove existing information about such debts.
  - Credit bureaus will not report medical debts less than 180 days old and will remove medical debts paid by an insurer.
  - Credit bureaus must periodically remove or suppress all debt collection accounts that have not been updated by the debt collector furnisher within the last six months.

The reforms were to be implemented in staggered stages over a three-year period ending in September 2018, and do not have a termination date.

C. CFPB supervision of credit bureaus and furnishers

A critical development was the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The Dodd-Frank Act created the Consumer Financial Protection Bureau (CFPB) and endowed it with the authority to write regulations to implement the FCRA and to enforce it.[14] Perhaps most importantly, the Dodd-Frank Act gave the CFPB supervision authority over the credit bureaus—a much more powerful and searching tool to reform the credit bureaus than an enforcement-only approach. This authority allows the CFPB to conduct on-site examinations of credit bureaus, just as bank examiners do for banks, in order to assess their compliance with federal consumer protection laws, obtain information about their activities and compliance systems, and detect and assess risks their practices pose for consumers and the marketplace.[15] In addition, the CFPB has supervisory authority over

many of the largest furnishers of information, such as large banks, mortgage servicers, student loan servicers, and debt collectors.[16]

In July 2012, the CFPB published a rule establishing its supervision authority over consumer reporting agencies that deal with financial products and services and have annual receipts of over $7 million from consumer reporting.[17] This includes the Big Three credit bureaus and a number of other consumer reporting agencies that focus on financial information. The CFPB's original director, Richard Cordray, immediately made it a priority to examine the credit bureaus' compliance with the FCRA, including the accuracy of credit reports and the credit bureaus' processes for error resolution.[18]

Using its authority in this area, the CFPB has studied the problems with various aspects of the credit reporting system and issued bulletins that provide guidance to credit bureaus and furnishers. These include:

- **CFPB Research Confirms Rampant Problems.** The CFPB's 2012 *Key Dimensions* report described the inner workings of the credit reporting industry in detail, documented problems, and laid the groundwork for reform.[19] The report confirmed many of the problems identified in our 2009 *Automated Injustice* report. It also documented that as of 2012, the credit bureaus were still asserting that their systems did not permit consumer-submitted documents to be forwarded to furnishers, allegedly due to "technological limitations, challenges evaluating the authenticity of consumer documents, and privacy concerns."[20] Finally, the report noted that debt collectors make up only 13% of account information in credit reports, but are responsible for nearly 40% of disputes.[21]
- **CFPB Puts Furnishers on Notice.** In 2013, the CFPB issued a bulletin putting furnishers on notice of their specific obligation to review all relevant information connected with a consumer dispute.[22] Meeting this obligation, the CFPB stated, required, among other things, "Maintaining a system reasonably capable of receiving from CRAs information regarding disputes, including supporting documentation."[23] At about the same time, the credit bureaus finally began making consumer-submitted documents available to the furnishers by uploading them to e-OSCAR. The CFPB followed up its 2013 bulletin with a blog post in February 2014 stating that consumers now had more options for disputing errors in their credit reports, including the ability to upload, mail, or fax supporting documents relevant to a credit report dispute.[24]
- **CFPB Documents Problems Discovered During Supervision.** The CFPB has used its periodic "Supervisory Highlights" publications to point out deficiencies in the credit reporting industry and to document when it has required improvements. Most significantly, the CFPB issued a special edition of Supervisory Highlights in March 2017 that documented the serious and widespread deficiencies uncovered during its supervisory examinations of the credit bureaus as well as furnishers, particularly regarding data accuracy and dispute processes.[25] These problems included insufficient quality control systems for testing the accuracy of credit reports and deficiencies in the credit bureaus' relationship with furnishers, especially as related to the dispute process. The CFPB also found that in cases where consumers had submitted documentary evidence in support of a dispute, "one or more [credit bureaus] failed to review and consider the attached documentation and relied entirely on the furnisher to investigate the dispute,"[26] plainly identifying parroting as a violation of the FCRA.

The March 2017 Supervisory Highlights report also documents how CFPB supervision has compelled the credit bureaus to take measures to improve accuracy and dispute handling. These measures include:

- **Formalizing and centralizing data governance policies** and establishing robust quality control programs.
- **Enhancing standards for public records data** including greater frequency of updates and stricter identity-matching criteria. This has led to the removal of over 90% of lawsuit records and 50% of tax lien records.[27]
- **Monitoring furnishers on an ongoing basis**, including a process to temporarily stop accepting data from furnishers that have accuracy problems or that fail to provide regular updates.
- **Tracking furnishers with higher rates of disputes** and ceasing to accept data from such furnishers when they failed to correct problems.
- **Improving access of data quality reports for furnishers**, including providing these reports to data furnishers at no cost.
- **With respect to disputes, revising policies and procedures** to ensure that the credit bureau conducts an independent review of the dispute and reviews all documents submitted by consumers to prove their dispute.

The CFPB's examinations of large furnishers has also resulted in a number of instructions to some of these furnishers to change their credit reporting practices, as summarized in the March 2017 report. These include:

- **Prevent Re-aging of Accounts.** The CFPB found that furnishers had inadequate systems to prevent re-aging of accounts, in that these furnishers reported accounts that had been transferred to them without any "date of first delinquency" (DOFD).[28] In addition, the Bureau noted that some furnishers updated the DOFD when a consumer filed bankruptcy, to reflect the bankruptcy filing date as the DOFD.[29] The CFPB directed furnishers to revise their written policies to correct these problems.[30]
- **Properly Update Information and Conduct Investigations.** The CFPB directed furnishers to fix problems with their failure to promptly update information sent to credit bureaus when a furnisher determined that reporting was incomplete or inaccurate; their failure to provide notice to consumers of the results of direct disputes or determinations that a dispute was frivolous or irrelevant; and their failure to timely complete investigations when credit bureaus referred disputes to them.[31] Examiners found that furnishers who had not completed their investigations within the statutorily allowed timeframe would at times report information as verified even though a review was not yet completed.[32] The CFPB directed these furnishers to implement systems for timely completion of investigations.

While the CFPB admitted at the time that its efforts were a work in progress,[33] it appeared to succeed in moving the proverbial needle. It was the most progress made in the decades of struggle to reform the credit bureaus' practices. However, as described below, problems persist and we fear the needle on the speedometer for reform is stuck on slow. Moreover, there is a risk that the change in administration at the CFPB has resulted in a dialing back of these efforts to get the credit bureaus to clean up their act.

D. CFPB enforcement actions against the credit bureaus and furnishers

In addition to supervisory efforts, the CFPB has taken enforcement action against both the credit bureaus and furnishers. The CFPB's enforcement actions against the credit bureaus primarily involved their sale practices in promoting credit monitoring products,[34] and did not involve accuracy or dispute issues.

More relevant to this update, the CFPB has taken a number of enforcement actions against furnishers for failing to ensure the accuracy of information furnished to the credit bureaus and other CRAs.[35] The CFPB has brought several actions against debt collectors for failing to reasonably investigate disputes.[36]

However, in a troubling sign, the CFPB settled its latest enforcement action against a furnisher for reporting inaccurate information and other FCRA violations without obtaining any monetary relief for consumers and without imposing civil penalties.[37] Such toothless enforcement signals to furnishers that they may violate consumer rights without any consequences.

III. PERSISTENT PROBLEMS ENDURE DESPITE REFORMS

Despite the CFPB's supervision and the reforms at the credit bureaus that it compelled, as well as the multistate Attorney General settlement, the deficiencies with the accuracy of credit reports and flaws with the dispute system continue to be significant and intractable. Two indications of the persistent nature of the problems are (1) the number of consumer complaints about credit reporting to the CFPB and (2) the evidence from the consumer complaint narratives as well as legal cases that the credit bureaus fail to correct even obvious errors in the face of compelling evidence.

In 2017, consumer reporting complaints took the top spot, as the number of complaints nearly doubled from 53,900 in 2016 to 100,000 in 2017. The available data from 2018 indicates that consumer reporting will once again be the top category of complaints, with over 100,000 complaints from January to October 2018.

A. Credit reporting tops consumer complaints to the CFPB

The continuing nature and scope of the problem with credit reports is made abundantly clear from the number of complaints received by the CFPB on the issue. Since its creation, there have been over 380,000 complaints about credit reporting or other consumer reporting (collectively "consumer reporting") issues to the CFPB.[38] About three quarters of these complaints—around 285,000—involved inaccurate information on Equifax, Experian or TransUnion credit reports.[39] From July 2011 to December 2017, consumer reporting issues were the third most complained about category, behind debt collection and mortgage complaints.[40]

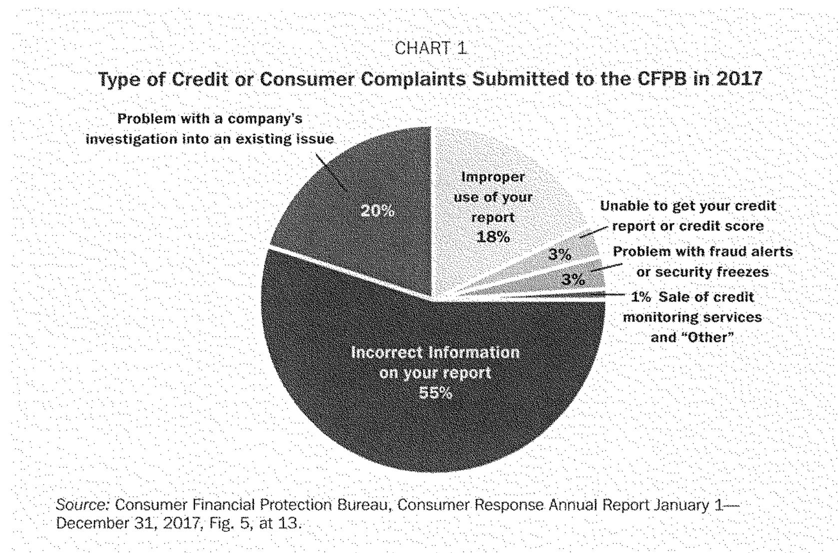
In 2017, consumer reporting complaints took the top spot, as the number of complaints nearly doubled from 53,900 in 2016 to 100,000 in 2017.[41] The available data from 2018 indicates that consumer reporting will once again be the top category of complaints, with over 100,000 complaints from January to October 2018 , compared to about 70,000 for debt collection in the number two spot.[42] In addition, the Big Three credit bureaus have often occupied the top three spots in terms of which companies the CFPB has received the most complaints about.[43]

[N.B. Note that while the dramatic increase in complaints in 2017 occurred in the year of the Equifax data breach, which resulted in theft of the personal information of about 148 million consumers, it was likely too early for an uptick of errors based on identity theft from the data breach. Instead, we believe that many consumers who typically would not have checked their credit reports did so prompted by the Equifax breach and discovered that their credit reports were riddled with errors.]

More than half (54%) of consumer reporting complaints to the CFPB involved inaccurate information. About 20% of complaints involved a credit bureau or other company's investigation into an existing issue, e.g., the investigation did not fix the error or took over 30 days.

CHART 1

Type of Credit or Consumer Complaints Submitted to the CFPB in 2017



Source: Consumer Financial Protection Bureau, Consumer Response Annual Report January 1—December 31, 2017, Fig. 5, at 13.

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Looking exclusively at those complaints to the CFPB regarding credit bureau investigations that were transmitted back to Experian, TransUnion, or Equifax, the majority were that the investigation did not fix the error in the consumer's report.

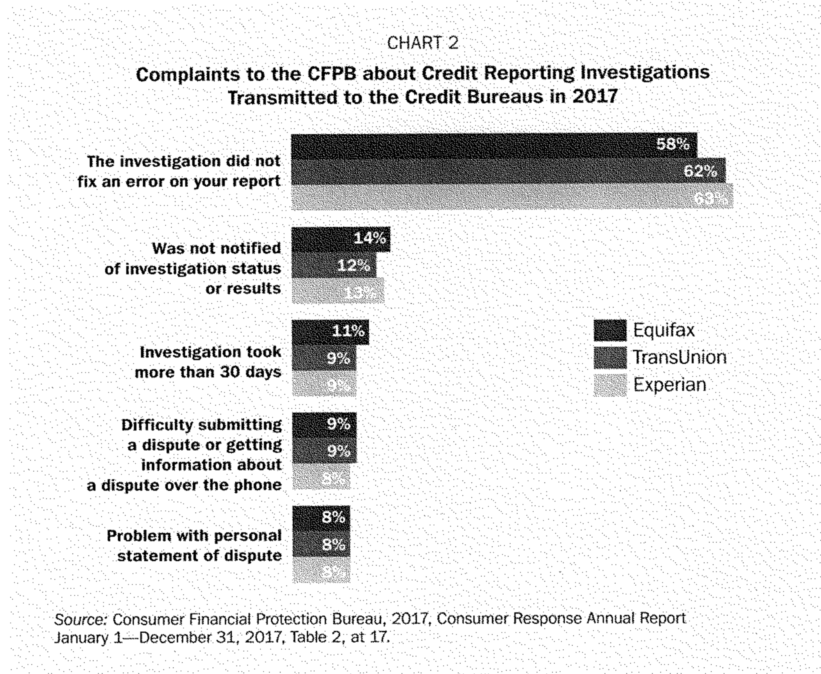

CHART 2
Complaints to the CFPB about Credit Reporting Investigations Transmitted to the Credit Bureaus in 2017

Source: Consumer Financial Protection Bureau, 2017, Consumer Response Annual Report January 1—December 31, 2017, Table 2, at 17.

Thus, if CFPB complaints are any indication, existing efforts to date have not proven sufficient to stem the tide of complaints against the credit bureaus about inaccurate information and unreasonable investigations of disputes.

B. Ten years after NCLC's report, systemic problems continue even after regulatory reforms

Despite the recent reforms, the credit reporting system remains flawed and the dispute process is still biased against consumers. One of the key problems that remains unresolved is the continued existence of mixed files. Another problem is shoddy, minimal investigations by furnishers, and the fact that the credit bureaus continuing to parrot or automatically accept the results of those sham investigations instead of taking their own steps to determine the truth.

Credit Bureaus Refuse to Correct Mixed File

Tammy Brown is a North Carolina resident who works for University of North Carolina Health Care. In 2014, Ms. Brown learned that her credit reports had been mixed with the file of another Tammy Brown in Indiana. Indiana Tammy Brown had filed for Chapter 7 bankruptcy in 2013, which was showing up in North Carolina Tammy Brown's credit reports at Equifax and Experian. In addition, her credit card accounts and a previous mortgage were showing up as discharged in bankruptcy, despite the fact that North Carolina Tammy Brown had never filed for bankruptcy. Her current mortgage was labeled as delinquent or with missed payments, despite the fact that she had never missed any payments. Her TransUnion report also contained erroneous information belonging to the Indiana Tammy Brown. North Carolina Tammy Brown sent dispute after dispute to the credit bureaus, but they never managed to properly fix her credit reports and she was forced to sue all three companies in 2016.

Source: Synopsis of Complaint, Brown v. Experian Info. Sol., Civ. Act. No 16-cv-000348 (N.C. Gen. Ct. Marc. 18, 2016).

1. Mixed files

Mixed files are arguably the worst kind of credit reporting error, and they continue to be a thorny and unresolved problem for consumers. To our knowledge, the credit bureaus continue to use overly loose matching criteria, such as partial Social Security Number matches, which leads to information being placed in the wrong consumer's file. Some examples of mixed files include:

From a complaint in the CFPB database:

> *So I recently found out that all credit bureaus mixed my credit history with my brother's credit history into a single report. I already contacted all bureaus with this dispute. Unfortunately, XXXX is the only credit bureau that handled this dispute as a professional company. XXXX is able to fix this dispute within XXXX hours and I received the corrected report already. However, XXXX and TransUnion are the worst agencies I have ever encountered. . . . Those XXXX companies keep claiming that it is my creditor's fault for not reporting the information with all detail (as they claim they never receive my SSN so all my information were filed under my brother 's name and SSN which means I don't exist in this country). . . . Second, the representatives ask me to mail in a copy of my SSN to prove my identity so they can handle the dispute "properly.' I complied with the request yet it's been freaking XXXX weeks and I haven't heard back from them regarding the status of the dispute.*

Source: Excerpt from CFPB complaint No. 1510006, filed August 9, 2015.

2. Automated investigations continue

As discussed on page 9, one of the key reforms brought about by CFPB supervision was that the credit bureaus and the e-OSCAR system began providing furnishers with copies of the documents submitted by consumers. Furnishers are supposedly required to review those documents. The CFPB's 2013 Bulletin establishes a requirement that furnishers must fully review all the information available to them when processing a dispute.[44] Despite this requirement, some furnishers are ignoring these consumer-submitted documents and failing to review critical information, including account notes. Instead, they continue to conduct pro forma, perfunctory investigations.

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The following is the deposition of an employee of Chrysler Financial Services who processed the dispute of Gary Sullivan. Chrysler Financial sued Mr. Sullivan in state court to collect a debt and lost the lawsuit. Despite a judgment that Mr. Sullivan did not owe the debt, Chrysler Financial continued to report it on his credit report. Mr. Sullivan submitted *twenty-one* disputes, yet neither Chrysler Financial nor the credit bureaus changed the information despite the court judgment.

> Q: All right. And what kind of information would you look at when you're responding to an ACDV [Automated Dispute Verification Form, i.e., the dispute transmittal form used by credit bureaus]?
> A: The status of the account, the contract and the application.
>
> Q: All right. And when you say account status, are you talking about the account history and notes in the account history?
> A: No.
>
> Q: All right. So you would not look at the account notes?
> A: No.
>
> Q: And did you make the determination on your own not to look at the account notes or is that how you were trained?
> A: Trained.
>
> Q: All right. And do you see where it says image information a little bit below that?
> A: Yes.
>
> Q: And it says associated images, does that indicate to you that there was an image attached to the ACDV?
> A: Yes.
>
> Q: Sitting here today, do you remember what that image was?
> A: No.
>
> Q: Do you know if there's a way to pull up and look at what that image was?
> A: No.
>
> Q: And no, you don't know if there's a way or no, there is not a way to do that?
> A: I do not know.
>
> *Source*: Excerpt of Deposition of Stephanie Hairston, Sullivan v. Equifax Info. Services, LLC, Civ. Ac. N. 14-CV-02377 (D. Colo. May 11, 2015)

C. Consumer stories of despair in fighting the credit bureaus

In order to give readers a sense of the severity of the problem with the credit bureaus and furnishers' dispute processing, this report includes selected stories that have occurred or were reported during the last five years, after CFPB supervision began and in some case after the multistate Attorney General settlement. These stories either come from legal cases or are credit reporting complaints from the CFPB complaint database. These stories illustrate both how the dispute process for credit reports remains broken, and the human toll that the lack of credit bureau and furnisher accountability takes on ordinary consumers.

1. Failure to correct information even when there is a judgment or legal settlement

One of the most obvious, head smacking, errors occurs when a consumer obtains a court judgment that they do not owe the debt or a legal settlement to fix reporting, yet the debt still appears on their credit report. In a gross example of bias towards furnishers, the credit bureaus will still parrot whatever the furnisher responds with even when confronted with court orders and legal settlements. Examples of this include Gary Sullivan's case against Chrysler Financial in the last section and the following cases.

Reporting a Debt Despite a State Court Judgment against the Furnisher

Caren Dacumos co-signed a car loan for Melanthon Ibanez with Toyota Motor Credit Corporation. Mr. Ibanez defaulted on the loan, so Toyota sued both Mr. Ibanez and Ms. Dacumos in King County Superior Court. Ms. Dacumos was able to successfully defend against Toyota's lawsuit and in June 2016, she obtained an order of dismissal with prejudice. "With prejudice" means that the court made a final determination on the merits of the case and Toyota could never sue Ms. Dacumos on the debt again. Despite the dismissal, Ms. Dacumos's credit reports were not updated to reflect that she no longer owed a debt to Toyota. Instead, the car loan was report as a charge off and that $13,593 was past due. (A "charge-off" occurs when a creditor moves a debt from profit to a loss on its balance sheet. Its appearance on a credit report is seen as highly negative and it will cause a significant decrease in a credit score).

Ms. Dacumos submitted multiple online disputes in 2016 and 2017 attempting to correct this information. Each time, Toyota verified the false information that Ms. Dacumos still owed $13,593 on the car loan, and the credit bureaus continued to parrot that information on her credit report. In April 2017, Ms. Dacumos sent another round of dispute letters to all three credit bureaus, this time by postal mail, attaching a copy of the court order dismissing Toyota's claims with prejudice. TransUnion responded by correcting the balance to $0. However, Toyota continued to erroneously claim to Experian and Equifax that Ms. Dacumos owed $13,593 on the car loan, and the two credit bureaus continue to take Toyota's side—despite having a copy of the order of dismissal. The ordeal caused Ms. Dacumos significant frustration, emotional distress, embarrassment and the humiliation of being turned down for credit twice at Navy Federal Credit Union. Even worse, the federal court rule against Ms. Dacumos in her lawsuit in a strange opinion holding that even though Toyota could never legally enforce the debt against Ms. Dacumos, it theoretically existed in the abstract and thus could be reported.

Source: Synopsis of Dacumos v. Toyota Motor Credit Corporation, 287 F.Supp.3d 1152 (W.D. Wash. 2017).

Furnisher ignores its own settlement

In 2013, Ocwen Loan Servicing took over the servicing of Valerie Jeffers's mortgage. For the entire time Ocwen has had the loan, Ms. Jeffers has been current on all of her payments. Yet Ocwen has, for the most part, always treated her as in default. This led to threats to foreclose, false credit reporting, and other abuses. Ms. Jeffers responded by filing a lawsuit, which resulted in a settlement agreement in September 2016 requiring Ocwen to pay damages and to fix the loan history to show that the mortgage was always current, including instructing the credit bureaus to fix Ms. Jeffers's credit reports. Unfortunately, Ocwen failed to live up to its promise to fix the reporting of the

mortgage. A month after the settlement agreement, Ms. Jeffers ordered her credit report after being denied a credit card at Sunglass Hut, only to find that Ocwen was again reporting false information. Ocwen reported that, as of September 2016, Ms. Jeffers was 90 days late, thousands of dollars past due, and hadn't made a payment in months.

Ms. Jeffers' next step was to file disputes with the credit bureaus—four times. Every single time, Ocwen responded falsely that Ms. Jeffers was 90 days late, thousands of dollars past due and hadn't made a payment in several months. Ocwen did so, despite its own settlement agreement, because like the credit bureaus, it was conducting sham investigations. Discovery from Ms. Jeffers legal case revealed that when Ocwen gets notice of a dispute, the company outsources its processing to overseas locations, where the people spend about one or two minutes doing the so-called investigation. Literally all the workers do is pull up the account information on their computer, and look at how the loan is currently reporting. Then, on another computer screen, they pull up what they previously reported to Equifax or Experian. And then all they do is match the data—to make sure the name, date of birth, SSN, and balance are the same for both screens. Ocwen never reviewed its own settlement agreement in its so-called investigation. And the credit bureaus accepted whatever Ocwen reported for each dispute.

Source: Synopsis of Trial Transcript, Jeffers v. Ocwen Loan Servicing, LLC, Civ. Ac. No. 17-CV-00025 (D. Colo. Feb. 20, 2018)

Debts paid and dismissed

The CFPB's complaint database similarly contains examples of debts being reported as owing and outstanding despite legal judgments to the contrary:

In XX/XX/XXXX I obtained a home mortgage loan with XXXX. A credit report inquiry by XXXX revealed one derogatory line on my credit report (Item 29 XXXX: see attached) that was incorrectly still present in my record despite the fact that this debt was satisfied (paid off) and signed off by the County Judge (Order of dismissal with Prejudice) one year prior (XX/XX/XXXX Court Order: see attached).

I attempted to dispute and resolve this issue directly with the Credit Reporting Agencies with no success.

I am about to apply for a new home mortgage loan and before I do that I would like to ensure that this derogatory line-item is permanently removed from my file with all 3 major credit reporting agencies.

I am reaching out to CFPB to help me solve satisfactorily this issue.

Source: Excerpt of CFPB Complaint No. 3085700, filed November 28, 2018.

Submitted complaints to all three credit bureaus on XX/XX/XXXX. Within a few days, XXXX and XXXX had removed the paid tax liens from my credit report, but Transunion refused to do so and made a cursory examination with no results. I disputed their answer and have since provided additional documentation, including data from the IRS and XXXX County Court indicating these tax liens have been withdrawn. Transunion has made no effort to make the obviously incorrect changes and has now XXXX times knowingly reported incorrect information to my prospective employer. I have now lost my lucrative job due to their incompetence, rudeness and ignorance.

Among other things, each time we provide them with additional documentation, they restart the 30 day clock making this an endless, pointless exercise that only they seem to engage in.

Source: Excerpt of CFPB Complaint No. 2430488, filed April 12, 2017.

2. *Identity theft*

Identity theft has become alarmingly frequent in our country. In 2017, 16.7 million consumers were victims of identity thieves, who collectively stole $16.8 billion.[45] The FTC reported receiving 371,061 reports of identity theft in that year.[46] The credit bureaus bear a significant share of responsibility for this problem . First, lax data security led to theft of sensitive information from both Equifax in 2017 (148 million consumers) and Experian in 2015 (15 million consumers). Second, the credit bureaus' loose matching procedures contribute to the problem of identity theft; for example, if a thief has only adopted the victim's first name and SSN but not the last name or address, the algorithm used by credit bureaus may merge the fraud information into the victim's file. Third, and most critically for our purposes, both furnishers and the credit bureaus often fail to believe consumers when they report identity theft and try to fix the aftereffects, even in the face of clear evidence, such as a confession from the thief or a police report.

Groundhog Day

Adrienne Escobar's mother, Julie, took a loan out in Adrienne's name and then defaulted on the loan. After the defaulted loan was reported on Adrienne's credit reports, Julie sent a letter in May 2008 to the Pennsylvania Higher Education Assistance Agency Services (PHEAA) admitting that she, not her daughter, took out the loan and offered to fill out the paperwork so that charges could be pressed against her. Instead PHEAA continued to report that Adrienne was responsible for the loan to the credit bureaus and sent her case to a debt collector.

In August 2014, Adrienne filed a dispute about the defaulted loan with two credit bureaus, and PHEAA simply responded that Adrienne "had a charged off student loan with an unpaid balance reported as a loss by a credit grantor that had been transferred to recovery." A second dispute in September 2014 resulted in a variation of that response.

In June 2015, Adrienne tried another tactic by filing a police report identifying her mother as the person who had stolen her identity — something Julie had told PHEAA 7 years earlier. In August 2015, Adrienne sent another dispute package to the credit bureaus, this time including the police report. Once again, Experian and TransUnion referred the dispute to PHEAA, which did not result in any change in the reporting. Equifax also sent the dispute to TransWorld Systems, a debt collector, who did instruct Equifax to delete the account for fraud. Additional disputes for fraud in October 2015 simply elicited the same response from PHEAA.

Finally in May 2016, after sending four disputes complete with documentation to the credit bureaus, and eight years after her mother had admitted to PHEAA in writing that she had committed fraud, the credit bureaus deleted the fraudulent account. Despite this, TransWorld Systems placed another collection account related to the student loan on Adrienne's Equifax file in November of 2016.

In an open and shut case of identity theft and fraud, with the perpetrator admitting in writing that she had stolen the victim's identity, it took four disputes over two years for the credit bureaus

to remove the account—and it got reported once again when a new debt collector took over the account.

Source: Synopsis of Escobar v. PHEAA, 2018 WL 1740364 (E.D. Pa. Apr. 11 2018).

That's why it's called identity theft

This is taken from a complaint filed with the CFPB:

Over ten years after subletting an apartment in 2007, a servicemember found that a debt collection item had been reported on their credit report, not once but three times, stemming from utility services at the apartment. The servicemember learned that someone had opened a utilities account in their name at the apartment they had sublet. In addition, the thief had opened another fraudulent account in the servicemember's name for another apartment five or six years ago at an apartment where the servicemember had never lived. The first account was not only fraudulent, it was over ten years old and thus too old to appear on any credit report because it was past the FCRA's time limits.

The servicemember complained about their inability to get the information deleted with the following analysis:

"Experian can not now claim that the information is verified as accurate when it's fraud. Just because someone has my name, ssn and birthdate doesn't mean the account they opened is a legitimate account . . . that's why it's called identity theft."

Source: Synopsis of CFPB Complaint No. 2828095, filed Feb. 27, 2018.

This servicemember's case illustrates that too often consumers end up in a Catch-22—how does the average consumer prove identity theft or fraud to a credit bureau that only accepts facts from furnishers? This is especially problematic when the furnisher is a debt collector, which has no incentive to get the reporting correct but primarily wants to get paid on an account. As noted in the CFPB's *Key Dimensions* report, nearly 40% of disputes involve debt collectors yet they only account for 13% of account-level information in credit reports.[47] Despite the skewed incentives of debt collectors, it appears the credit bureaus are still automatically taking their side in credit report disputes.

They don't even believe elderly widows with a police report

Frances Iaquessa is a 70 year old widow who has had a Citi credit card since 1996. A thief stole Ms. Iaquessa's Citi credit card, and charged $16,000—first at Best Buy on June 12, 2018 and then at an Apple Store on June 19, 2018. Ms. Iaquessa was not present at the respective stores on either date, did not make the purchases, and did not receive any goods or services from the stores. Citi was alerted to the unusual purchases through its Fraud Early Warning System and called Ms. Iaquessa; for some reason, a guest in her home, using her phone, confirmed the purchases.

Ms. Iaquessa disputed the charges on June 21, 2018. On July 20, Citi notified Ms. Iaquessa that it rejected her dispute and claimed "you participated in the transactions(s) with the merchant by providing them with your card." On August 9, 2018 and again on October 26, Ms. Iaquessa's attorney sent a formal written dispute to Citi enclosing her police report as to the transactions, asking Citi to listen to tapes of the conversations, requesting documentation of the purchases, and asking that Citi get videos of the transactions from the stores. To date, Ms. Iaquessa has not received an acknowledgement or response.

Ms. Iaquessa's attorney also sent a dispute of the Citi debt to Equifax on August 13, 2018, including a copy of the police report. Equifax conveyed the dispute, with the image of the police report, to Citi, yet Citi once again verified the debt as legitimate. Neither Citi nor the credit bureaus ever conducted a reasonable investigation of the dispute by, for example, using Citi's voice biometrics system to compare the conversations with Ms. Iaquessa and with the person who stole her credit card; reviewing the account history that showed the highest balance ever incurred by Ms. Iaquessa's was less than $2,500 or that her average balance was less than $1,000, or that she had always paid the account as agreed before the theft. They did not review the sale slips to compare signatures with past purchases or contact Best Buy or Apple. Most critically, they disregarded the police report that was consistent with Ms. Iaquessa's earlier disputes of unauthorized use.

Source: Synopsis of Complaint, Iaquessa v. Citibank, N.A., Case 3:19-cv-00002 (D. Conn. Jan. 2, 2019).

3. *Mixed messages*

To the extent that CFPB supervision and the multistate AG settlement has improved dispute handling, this reform has proven to be inconsistent. The following example shows how consumers might find themselves helped one day and stonewalled the next. From a CFPB complaint:

After being denied a car loan because mortgage and auto debt that did not belong to them, a Texas consumer called Transunion to figure out what was going on. The consumer was informed that TransUnion had merged their credit profile with someone else's with a similar name. The accounts and incorrect personal information were deleted.

After going back for a car loan, however, the consumer was denied because of excessive credit inquiries dating to when their file was merged. The consumer spoke to TransUnion again and was assured the information would be removed. It was not. Upon calling TransUnion again, they were told there was nothing that could be done and they would have to wait for the information to fall off. The next person the consumer spoke to said they had to file a police report for fraud. The consumer noted that you can't file a police report if there was no fraud—simply an error by TransUnion that they had admitted to the consumer.

Summing up the frustration and sense of futility that pervades these complaints the consumer noted: "the creditors are saying call the bureaus and the bureaus say call the cred[itors]."

Source: Synopsis of CFPB Complaint No. 2497366, filed May 30, 2017.

4. *Reporting consumers as deceased*

One of the most bizarre problems is the reporting of a living consumer as deceased. Usually the error occurs when a creditor reports a consumer as deceased by entering a value of "X" in the data field otherwise used to report an account as a joint obligation or as an authorized user account. When the creditor then furnishes the inaccurate account information to the credit bureau, the deceased condition is reported to the consumer's file. This results in the entire file essentially shutting down, as the file will no longer be able to generate a credit score.[48] As part of the multistate Attorney General settlement, the credit bureaus agreed to develop best practices for identifying and preventing inaccurate reporting when a consumer

disputes a report stating that he or she is deceased.[49] However, so far these practices appear not to be working very well.

I'm not dead!

> *In March 2017, Peggy Bender found herself unable to use her personal credit or debit card through her primary bank. According to her banker, her card no longer worked because Equifax had been reporting to the bank that Ms. Bender was deceased. Shortly thereafter, Ms. Bender received a letter dated April 3, 2017 stating that she was denied a request for prequalification by Credit One Bank because Experian was also reporting her as deceased.*
>
> *Subsequently, Ms. Bender received additional letters denying her credit on the basis that she was being reported as deceased. She also received two letters expressing condolences for her own death, a particularly unnerving experience. Ms. Bender was also greatly concerned and highly upset about being reported as deceased because she generates income from buying and selling real estate, and a deceased notation would prevent her from obtaining the credit she needed to sustain that real-estate related income.*
>
> *On February 9, 2018, Ms. Bender sent a written dispute letter to Experian requesting that they correct any "Deceased" coding from her credit file. Experian responded that they had "updated" information about several accounts, attaching a copy of a credit report that did not reflect a Deceased notation on any of Ms. Bender accounts. However, in July 2018, Ms. Bender once against received a letter from denying her a credit card because a credit bureau was reporting her as Deceased. At that point, Ms. Bender decided to seek legal assistance and file a lawsuit.*
>
> *Source*: Synopsis of Complaint, Bender v. Experian Info. Sol., Civ. Ac. No. 4:19-cv-00120 (E.D. Mo. Jan. 29, 2019).

5. *Ignoring disputes as "suspicious requests"*

At least one credit bureau—Experian—has a practice of regularly rejecting disputes as "suspicious requests," asserting that it believes that the dispute was not sent by the consumer. While the credit bureaus are permitted to reject "frivolous and irrelevant" disputes, Experian has a habit of being overly inclusive in what it considers suspicious, even rejecting disputes with identification documents, sent by certified mail, and accompanied by supporting documentation.

From the CFPB complaint database:

> *I have spent the past 6 months sending disputes monthly to Experian about XXXX inaccurate accounts reporting on my credit report. (XXXX Accounts and XXXX Account) Experian has consistently disappointed me by doing everything in their power to not honor the disputes. They've said: 1) This is a suspicious request and we are protecting your identity, so we will not honor your disputes (Although the dispute was not suspicious, it was sent certified mail with a return receipt and included my identification documentation and a list of the accounts in question); 2) Send more documentation, we can't verify your identity (although I sent a copy of my passport, driver's license and social security card with the original dispute and the address on my disputes matched the address on my driver's license and credit report); 3) We have previously verified these accounts, we believe your dispute is not valid, so we will refuse to process it. (Although their other responses were*

not verifying the accounts at all, they were requesting more information and fraudulently denying me my rights under the Fair Credit Reporting Act); 4) Now they have stopped responding to my disputes all together. It's evident to me that Experian is willfully non-compliant and blatantly breaking the law. When I sent the request to XXXX and XXXX, they deleted it right away.

Source: Excerpt of CFPB Complaint No. 1409259, filed June 6, 2015.

6. *Re-aging*

A problem that sometimes occurs with debt collectors is the "re-aging" of obsolete debts. The FCRA requires most consumer debts to be deleted from a credit report after seven years from the date of charge-off or 180 days after the delinquency. Re-aging occurs when debt buyers fail to report or purposefully misrepresent the critical date of first delinquency, which is the trigger date from which the seven years is counted. A 2013 FTC report on the debt buying industry indicated that debt buyers obtained information about the date of first delinquency for only 35% of accounts at the time of purchase[50] —which means that up to two-thirds of debt buyer accounts could be reporting an incorrect date.

The following is a complaint from the CFPB database—it appears from the text of the complaint that the redacted dates (XX/XX/XXXX) are over seven years old:

TransUnion continues to report late payments of 180 days past due on a mortgage that is now over 10 years old. I first spoke with [a TransUnion representative], then with her Manager, who explained to me that until [the furnisher] reports the information using the correct term "date of first Delinquency" rather than "date of last payment," this will remain on my report indefinitely. Date of first delinquency is XX/XX/XXXX if last payment made is XX/XX/XXXX. But because that exact phrase was not provided I am told the information is accurate.

"I also called [the furnisher], but after being transferred from 3 different depart[ment]s, I was sent to a dead connection. This information by law should have been removed no later than XXXX, yet it continues to report today and apparently will always be on report. They have the info needed to correct but refuse to do so. It's crazy that such an incompetent company has so much power over a consumer's financial future. [This] continues to cost me thousands of dollars in over interest rates and refusal of credit.

The other reporting agencies each removed this information yet Transunion continues to report outdated information and say they will do so indefinitely. Those are their words not mine.

Source: Excerpt of CFPB complaint 2745578, filed Dec. 5, 2017.

IV. POLICY RECOMMENDATIONS

Despite the substantial and valiant efforts of the CFPB and the state Attorneys General, there is still a great need for reform of the credit reporting industry. Note that these recommendations only address problems with accuracy and the broken dispute system. There are a number of other flaws in the credit reporting system, which require their own reforms.

1. Right to appeal

Congress should establish a right for consumers to appeal when they disagree with a furnisher or credit bureau about the results of a dispute investigation. The appeal could either be to an independent unit in the credit bureau or to a regulator, such as the CFPB or FTC. If the unit is housed within a credit bureau, the unit must have direct and unfettered authority to make independent decisions and not be subject to any restrictions or incentives to process disputes quickly or in favor of furnishers.

2. Stricter matching criteria

Congress should require the credit bureaus to use stricter matching criteria, including matching information based on all nine digits of the consumer's SSN or eight digits plus full name and address. At a minimum, Congress should require the CFPB to engage in a rulemaking that considers imposing such a requirement and in general establishing minimum procedures to ensure "maximum possible accuracy."

3. Require the credit bureaus to devote sufficient resources and conduct independent analyses in disputes

Congress, the federal regulators (CFPB, FTC) and state regulators must:

- Require credit bureaus and furnishers to dedicate sufficient resources and provide well-trained personnel to handle disputes.
- Enforce (for the regulators) or clarify (for Congress) that credit bureaus must conduct an independent analysis of disputes, separate from that of the furnisher.

4. Injunctive relief for consumers

Congress should give consumers the right to obtain court orders (injunctive relief) compelling credit bureaus to fix a credit report.

5. Give consumers more control over their credit reports

Consumers should be in the driver's seat in terms of the sharing of their credit reports. Congress should require that consumers proactively authorize the use of their credit reports for credit, insurance, and other uses. This could be combined with identity verification requirements which would act as a security measure against identity theft—basically making credit reports "frozen" by default.

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6. A publicly owned credit bureau

Congress should establish a publicly owned alternative for credit reporting. This would provide the true competition so desperately needed in this industry.

In some countries, credit reporting is a public function or there is a publicly owned database that serves as a public option. Congress should establish a publicly owned alternative for credit reporting. While public agencies are far from perfect, at least they would be responsive to public pressure and government oversight. If the commercial credit bureaus are not responsive to a consumer's dispute, the consumer would have the option of having a lender or other user rely on the publicly-owned credit bureau. This would provide the true competition so desperately needed in this industry . We note that Demos will be coming out with a report proposing a public credit reporting system in the near future.

V. CONCLUSION

In the ten years since NCLC published *Automated Injustice*, we've seen incremental improvement in the credit reporting system, obtained at the cost of much effort by the CFPB and the state Attorneys General. We commend the federal and state regulators for their hard work, but there is much more that still needs to be fixed. American consumers have suffered enough at the hands of the credit bureaus. We must have large scale and sweeping reform, and soon.

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A LAW CORPORATION

February 25, 2019

Honorable Maxine Waters, Chairwoman
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Waters,

The credit reporting system is a crucially important component of the U.S. economy, and I thank you for holding this oversight hearing on consumers and credit reporting. The House Financial Services Committee has been at the forefront of these issues and should continue to closely examine the rules and practices that govern consumer reports. To that end, and in conjunction with the Committee hearing, it is important to highlight the reforms put in place in 2015 by 31 states[1] and credit reporting agencies to overhaul credit report practices and the furnishing of credit report information ("Multi-State Settlement" or "Settlement"). As the former Attorney General of the State of Hawaii from 2015-2018, a state that participated in the Multi-State Settlement, I am writing to provide perspective on the Settlement's key provisions and how the associated obligations on credit reporting agencies ("CRAs") improve outcomes for consumers.[2] A copy of the Settlement also is attached.

Overview of the Multi-State Settlement and Key Improvements to Consumer Reporting

In 2015, after years of investigatory efforts and dialogue with the three main CRAs—Experian Information Solutions Inc., Equifax Information Services LLC, and TransUnion LLC ("covered CRAs")—31 states and the covered CRAs announced a settlement that requires the covered CRAs to adopt new processes and make significant changes to existing ones to improve the accuracy of consumer reports, the quality of data contained in those reports, the credit reporting practices of data furnishers, and consumers' experiences when working with the credit reporting agencies, among other requirements. The terms of the Settlement were designed to address areas of significant concern by the states while avoiding unintended consequences to consumers. Notably,

[1] Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, and Wisconsin.

[2] The State of Hawaii was represented in the Settlement by the Office of Consumer Protection, a division of the Department of Commerce and Consumer Affairs. The Settlement was signed on behalf of Hawaii by the Executive Director for the Office of Consumer Protection.

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the obligations imposed on the covered CRAs go well beyond what is required by the Fair Credit Reporting Act ("FCRA").

Better Data

The Settlement results in significant changes by the covered CRAs that immediately reduce the risk of inaccurate data in consumer reports and promote fairness for consumers. In particular, the Settlement creates new restrictions on the collection of data and the use of certain types of data in consumers' files. For example, the covered CRA's are required to reject data from collection furnishers (i.e., collection agencies and debt purchasers) that is not provided with the name of the original creditor and in accordance with specified creditor classification codes. These changes will help root out misreporting by collection furnishers.

Another area of reporting that the Settlement systematically improved is related to medical collections. According to the Settlement, the covered CRAs will no longer report medical debt when the date of the first delinquency is fewer than 180 days prior to the date that the account is reported to the covered CRAs. The covered CRAs also will remove on file medical collections paid in full by insurance. These changes recognize the complexity of medical billing and provide consumers time to sort out which medical payments are the responsibility of the insurance company, and not the consumer.

As a result of the Settlement, the covered CRAs removed all civil judgments and tax liens as it has been found that, in certain cases, not enough identifiable information is reported with civil judgments and tax liens to ensure that the information always is associated with the correct individual. Further, the Settlement requires the covered CRAs to enforce minimum reporting standards for personally identifying information for all data to ensure that reported data is correctly matched to consumers. The Settlement requires that these data standards are based on trends in furnisher reporting and/or consumer disputes in order to determine key issues with particular groups of furnishers or reporting practices.

The Settlement also mandates procedures for handling consumers reported as deceased. These procedures include sharing disputes of deceased indicators among the covered CRAs to allow them to reinvestigate whether a consumer was erroneously reported as deceased without being directed to do so by the consumer. The covered CRAs also are required to provide training to data furnishers on standards for reporting consumers as deceased, including instructing furnishers to verify documentation to confirm that a consumer is deceased before reporting deceased indicators to the covered CRAs. The procedures are designed to reduce the frequency with which consumers are erroneously reported as deceased and to make it easier for consumers to resolve disputes relating to deceased indicators. Overall, the covered CRAs will have better and cleaner data, which will result in more accurate consumer reports.

Strengthening the Consumer Experience

The Settlement includes a number of provisions to improve consumer experiences when interfacing with covered CRAs, including provisions relating to how the covered CRAs handle disputes and how the covered CRAs communicate the results of disputes to consumers. The Settlement creates obligations on the covered CRAs to have agents review documents provided by consumers in support of a dispute and to empower those agents with discretion to make changes to consumers' files based on those documents. The covered CRAs also must have specially trained agents to handle certain types of disputes, in particular those related to fraud, identity theft, and mixed files (i.e., when credit information for multiple persons is erroneously placed in a single credit report). According to the Settlement, escalated handling of these reports must be assigned to representatives from specialized groups with substantial experience processing these types of disputes. The review shall include a reinvestigation of all items disputed by the consumer and may involve direct communication with the furnishers of the information at issue.

Once a reinvestigation is finalized, covered CRAs will now have to provide consumers with enhanced dispute result notifications, including more specific information about changes made to the consumer's credit report as a result of the dispute, more information about the process used in reinvestigating the dispute, and an explanation of the consumer's options if he or she disagrees with the results of the reinvestigation. Although these reinvestigation results may have been provided previously, the Settlement is designed to ensure more effective consumer notices and reduce consumer confusion through standardized and specific disclosure obligations. Further, following a successful dispute, consumers are entitled to an additional free annual credit report from the covered CRAs.

The Settlement also requires the covered CRAs to enhance educational content available to consumers on AnnualCreditReport.com and their own websites. Specifically, the Settlement mandates that the covered CRAs provide educational content related to fraud, identify theft, security freezes, data breaches and consumer disputes of credit report information. This requirement was designed to improve transparency and consumers' understanding of the credit reporting process.

Higher Standards for Information Furnishers

The Settlement creates new requirements for covered CRAs to monitor the performance of furnishers and to take corrective action, when reasonably necessary, with respect to a furnisher that fails to comply with its obligations regarding data furnishing or reinvestigating consumer disputes. The covered CRAs are required to create minimum standards for the types of indicators that furnishers of newly opened trade and collection data shall report to the covered CRAs for the covered CRAs to accept their data. The Settlement also requires the covered CRAs to monitor furnishers' responses to disputes and to take appropriate corrective action against furnishers when

necessary. These provisions will improve the data that covered CRAs receive and create new incentives for furnishers to expend additional time and resources to resolve consumer disputes.

The Settlement also creates specific new restrictions on collection furnisher data. For instance, covered CRAs are required to prohibit collection furnishers from reporting debt that did not arise from any contract or agreement to pay (i.e., fines, tickets, and other assessments). The covered CRAs also must require collection furnishers to regularly reconcile data relating to accounts in collection that have not been paid in full.

The data generated by the covered CRAs in the course of monitoring furnishers holds furnishers accountable for their obligations under the FCRA. These data points provide insight into the entire credit ecosystem, including furnishes, aggregators, users and consumers. Thus, the Settlement improves the processes not only of the CRAs but also the furnishers who report data to the CRAs.

* * * * *

The Multi-State Settlement included a number of obligations in addition to those listed above and, by any measure, was a seminal moment for advancing consumer protections in the area of consumer reports. These new protections were carefully designed over years of investigation and dialogue between the states and the covered CRAs to maximize consumer benefits while minimizing unintended consequences in consumer reporting. If you have any questions about the Settlement or its impact on consumers, please contact me at (808) 537-6100. I look forward to working with the Committee on these important consumer protection matters.

Regards,

Doug Chin

Enclosure: *In the Matter of* Equifax Information Services LLC, Experian Information Solutions Inc., and TransUnion LLC

cc: Honorable Patrick McHenry, Ranking Member
U.S. House Committee on Financial Services

IN THE MATTER OF:

Equifax Information Services LLC,
Experian Information Solutions, Inc., and
TransUnion LLC

ASSURANCE OF VOLUNTARY COMPLIANCE/
ASSURANCE OF VOLUNTARY DISCONTINUANCE

This Assurance of Voluntary Compliance/Assurance of Voluntary Discontinuance ("Settlement" or "Assurance") is entered into between the States of Alabama, Alaska, Arizona, Arkansas, Florida, Georgia,[1] Hawaii,[2] Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, and Wisconsin (the "States" or individually, a "State"), acting through their respective Attorney General, Departments of Justice, or Offices of Consumer Protection ("Attorneys General"), and the consumer reporting agencies Equifax Information Services LLC, Experian Information Solutions, Inc., and TransUnion LLC (each, a "CRA," and collectively, the "CRAs"), to settle concerns that the CRAs' conduct has violated the Fair Credit Reporting Act (the "FCRA," 15 U.S.C. § 1681 et seq.) and the States' consumer protection laws relating to unfair and deceptive

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[1] The State of Georgia is represented in this matter by the Georgia Governor's Office of Consumer Protection, an agency that is not part of the Georgia Attorney General's Office but is authorized to enforce Georgia's Fair Business Practices Act ("FBPA"). For simplicity, the term "Attorneys General" shall include the Administrator of the FBPA.

[2] Hawaii is being represented in this matter by its Office of Consumer Protection, an agency which is not part of the state Attorney General's Office, but which is statutorily authorized to undertake consumer protection functions, including legal representation of the State of Hawaii. For simplicity, the entire group will be referred to as the "Attorneys General," and such designation, as it includes Hawaii, refers to the Executive Director of the State of Hawaii Office of Consumer Protection.

business acts and practices.[3] The States and the CRAs have agreed to execute this Assurance for the purposes of settlement only.

I. BACKGROUND

A. This Settlement is the result of the CRAs working cooperatively with the Attorneys General of the States.

B. The States have each enacted a statute relating to unfair and deceptive business acts and practices.

C. The States and the CRAs jointly acknowledge the various findings and statement of purpose expressed by Congress in section 602 of the Fair Credit Reporting Act (the "FCRA," 15 U.S.C. § 1681 et seq.), including: (i) the banking system is dependent upon fair and accurate credit reporting, which is directly impaired by inaccurate credit reports, and public confidence essential to its continued functioning is undermined by unfair credit reporting methods; (ii) the CRAs play a vital role in assembling and evaluating consumer credit information, utilizing an elaborate mechanism for investigating and evaluating the credit worthiness, credit standing, credit capacity,

[3] See generally Ala. Code §§ 8-19-1 to 8-19-15; Alaska Stat. §§ 45.50.471 to 45.50.561; Ariz. Rev. Stat. Ann. §§ 44-1521 to 44-1534; Ark. Code Ann. §§ 4-88-101 to 4-88-905; Fla. Stat. §§ 501.201 to 501.213; Ga. Code Ann. §§ 10-1-390 to 10-1-407; Haw. Rev. Stat. §§ 480-1 to 480-24; Idaho Code Ann. §§ 48-601 to 48-619; 815 Ill. Comp. Stat. 505/1 to 505/12; Ind. Code §§ 24-5-0.5-0.1 to 24-5-0.5-12; Iowa Code §§ 714.16 to 714.16A; Kan. Stat. Ann. §§ 50-623 to 50-679a; La. Rev. Stat. Ann. §§ 51:1401 to 51:1427; Me. Rev. Stat. Ann. tit. 5, §§ 205A to 214; Md. Code Ann., Com. Law §§ 13-101 to 13-501 (West); Mass. Gen. Laws Ann. ch. 93A, §§ 1 to 11; Mich. Comp. Laws §§ 445.901 to 445.922; Mo. Rev. Stat. §§ 407.010 to 407.1500; Neb. Rev. Stat. §§ 59-1601 to 59-1623 and §§ 87-301 to 87-306; Nev. Rev. Stat. §§ 598.0903 to 598.0999; N.M. Stat. §§ 57-12-1 to 57-12-26; N.C. Gen. Stat. §§ 75-1.1 to 75-16.2, § 75-41; N.D. Cent. Code §§ 51-15-01 to 51-15-11; Ohio Rev. Code Ann. §§ 1345.01 to 1345.13 (West); Or. Rev. Stat. §§ 646.605 to 646.656; 73 Pa. Stat. Ann. §§ 201-1 to 201-9.3 (West); R.I. Gen. Laws §§ 6-13.1-1 to 6-13.1-29; Tenn. Code Ann. §§ 47-18-101 to 47-18-130; Tex. Bus. & Com. Code Ann. §§ 17.41 to 17.63 (West); Vt. Stat. Ann. tit. 9, §§ 2451 to 2481x; Wis. Stat. §§ 100.18(1), (2), (9) & (11), 100.195, 100.20 , 100.313, 100.52, 100.54, 100.545 & 100.55.

character, and general reputation of consumers; (iii) it is important for the CRAs to exercise their grave responsibilities with fairness, impartiality, and a respect for consumers' right to privacy; and (iv) the FCRA requires the CRAs to adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of the FCRA.

D. The States, acting through an Executive Committee, initiated a multistate investigation into certain segments of the credit reporting industry to examine concerns and disputes presented by consumers to the States regarding various credit reporting issues, including concerns that the CRAs do not maintain reasonable procedures to assure maximum possible accuracy of consumer reports or credit reports, do not maintain reasonable procedures to conduct reasonable reinvestigations of consumer disputes, engage in improper disclosure or marketing practices relating to the sale of direct-to-consumer products to consumers during credit report dispute phone calls, and do not maintain reasonable procedures designed to prevent the reappearance in consumer reports or credit reports of information that is deleted or suppressed from display in such consumer reports or credit reports pursuant to a reinvestigation.

E. The CRAs fully cooperated in the States' investigation. Specifically, the States issued subpoenas to each of the CRAs, and the CRAs produced a substantial volume

of documents and information in response. The States and the CRAs also met on multiple occasions to discuss the issues raised in the States' investigation.

F. The CRAs deny wrongdoing of any kind and assert that they have fully complied with all federal and state laws that govern their credit reporting activities, have not violated the FCRA or any other applicable state or federal law, and have voluntarily agreed to undertake the substantive actions set forth in Section IV(E)-(H) of this Settlement, although the CRAs contend these actions are not required under the FCRA or other applicable legal standards.

II. DEFINITIONS

For purposes of this Settlement, the CRAs and the States adopt the definitions set forth in the FCRA, 15 U.S.C. § 1681a, as that provision shall be modified or amended in the future. In addition, the following terms not defined in the FCRA but used herein shall have the following meanings for purposes of this Settlement only.

A. "ACDV" shall mean Automated Credit Dispute Verification, an automated dispute form that is initiated by a CRA on behalf of a consumer and routed to the appropriate furnisher for review and update or verification.

B. "Affiliate" shall mean an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, any of the CRAs.

C. "AUD" shall mean Automated Universal Data, an automated form used for out-of-cycle credit history updates that is initiated by the furnisher.

D. "Completion Date" shall mean three (3) years and ninety (90) days following the Effective Date.

E. "CRA" shall mean, in their individual and separate capacities, Equifax Information Services LLC, Experian Information Solutions, Inc., and TransUnion LLC, each a party to this Assurance and a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as set forth in the FCRA, 15 U.S.C. § 1681a(p).

F. "CRAs" shall mean, collectively, Equifax Information Services LLC, Experian Information Solutions, Inc., and TransUnion LLC, in their capacities as consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as set forth in the FCRA, 15 U.S.C. § 1681a(p). Any reference to "the CRAs" in this Assurance shall require that each CRA individually take the required action set forth in the Assurance.

G. "e-OSCAR" shall mean the Online Solution for Complete and Accurate Reporting, a browser-based system for conveying consumer disputes to furnishers and for furnishers to convey the results of their reinvestigations to the CRAs, designed in part in furtherance of compliance with the FCRA, 15 U.S.C. § 1681i(a)(5)(D).

H. "Effective Date" shall mean the date on which this Settlement is signed and fully executed by all parties hereto.

I. "Executive Committee" shall mean the Attorneys General and their staff representing the States of Georgia, Idaho, Illinois, Maine, Nevada, North Carolina, Ohio, Oregon, and Pennsylvania.

J. "Implementation Schedule" shall mean the timeframe for implementation of the substantive terms of this Settlement, as further set forth in Section III of this Settlement.

K. "Original Creditor" shall mean the name of the original credit grantor as reflected in the K1 Segment in Metro 2 and shall be construed consistent with the Credit Reporting Resource Guide.

L. "Supporting Dispute Documentation" shall mean a document submitted by a consumer who has initiated a dispute, other than a document created by the consumer or the consumer's own statement of dispute, that has some objective indication that a party with direct involvement or authority regarding the disputed item of information in the consumer's file has played a role in creating the document.

M. All other terms defined elsewhere in this Settlement are so defined, and shall have such meanings as set forth where defined, for purposes of this Settlement only, including the following terms: Assurance; Attorneys General; Collection Furnishers; Confirmed Mixed File; Creditor Classification Codes; Death Notice; Disputed Deceased Indicator; State and States; Settlement; and Working Group.

III. <u>IMPLEMENTATION SCHEDULE</u>

Within ninety (90) days of the Effective Date, each of the CRAs shall provide the States' Executive Committee with an Implementation Schedule that shall set forth the expected schedule for implementation of each of the substantive policies, practices, and procedures set forth in Section IV(E)-(H) of this Settlement. To the extent there are any differences between the descriptions of the substantive policies, practices, and procedures set forth in Section IV(E)-(H) of this Settlement and those set forth in the Implementation Schedule, the provisions of Section IV(E)-(H) of this Settlement shall control.

The Implementation Schedule shall set forth three phases of implementation, including scheduled dates by which each phase will be completed, as follows:

A. **<u>Phase 1</u>**: Each of the CRAs shall complete the tasks in Phase 1 within six (6) months of the Effective Date.

B. **<u>Phase 2</u>**: Each of the CRAs shall complete the tasks in Phase 2 within eighteen (18) months of the Effective Date.

C. **<u>Phase 3</u>**: Each of the CRAs shall complete the tasks in Phase 3 by the Completion Date.

Unless otherwise noted in the Implementation Schedule, the policies, practices, and procedures set forth in Section IV(E)-(H) of this Settlement shall all be implemented no later than the Completion Date. A CRA shall provide reasonable notice to the States if the CRA, in good faith, needs to make any significant modifications or other significant changes to the scheduled dates established in the Implementation Schedule. Significant modifications or other

significant changes to the scheduled dates established in the Implementation Schedule may be made with the consent of the Executive Committee, which consent shall not be unreasonably withheld.

IV. POLICIES, PRACTICES, AND PROCEDURES

A. The CRAs shall comply with such State, Federal, and/or local laws, rules and regulations as now constituted or as may hereafter be amended which are applicable to the CRAs, including but not limited to the FCRA and the State Consumer Protection laws cited in footnote 3 of this Settlement.

B. The CRAs shall comply with section 607(b) of the FCRA, 15 U.S.C. § 1681e(b), a copy of which is attached as Exhibit A, by following reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom a consumer report relates whenever the CRAs prepare a consumer report.

C. The CRAs shall comply with section 611 of the FCRA, 15 U.S.C. § 1681i, a copy of which is attached as Exhibit B, including by:

1. Completing reasonable reinvestigations of consumer disputes within thirty (30) days or, if the CRA receives information from the consumer during that thirty (30) day period that is relevant to the reinvestigation, within forty-five (45) days, unless the CRA reasonably determines that the consumer dispute is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information;

2. Providing, before the expiration of five (5) business-days beginning on the date on which the CRA receives notice of a dispute from any consumer, notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that CRA has received from the consumer;

3. After completing a reasonable reinvestigation of any information disputed by a consumer in which the item of information is found to be inaccurate or incomplete or cannot be verified:

   a. Promptly deleting that item of information from the consumer's file or modifying that item of information, as appropriate, based on the results of the reinvestigation; and

   b. Promptly notifying the furnisher of that information that the information has been modified or deleted from the consumer's file;

4. Notifying a consumer that the CRA has terminated its reinvestigation of a consumer dispute, not later than five (5) business days after making such a determination, when the CRA terminates a reinvestigation as frivolous or irrelevant;

5. Maintaining reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is

deleted pursuant to a reinvestigation (other than information that is reinserted in accordance with section 611(a)(5)(B) of the FCRA, 15 U.S.C. § 1681i(a)(5)(B));

6. Providing written notice to a consumer of the results of a reinvestigation not later than five (5) business days after the completion of the reinvestigation; and

7. Not reinserting any information that is deleted from a consumer's file pursuant to a reasonable reinvestigation unless the person who furnishes the information certifies that the information is complete and accurate, in which case the CRA shall notify the consumer of the reinsertion not later than five (5) business days after the reinsertion, and provide to the consumer in writing the contact information of the furnisher connected with the reinsertion and a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

D. In addition, pursuant to the Implementation Schedule, each of the CRAs shall undertake the specific actions set forth in Section IV(E)-(H) below, which are intended to: (i) expand on the FCRA's mandate to follow reasonable procedures to assure maximum possible accuracy of data maintained within the CRAs' respective credit reporting databases; (ii) set additional standards for the data reporting practices of furnishers that will further enhance and improve the quality of data reported to the CRAs; (iii) enhance consumers' experiences with the CRAs when disputing items on their credit reports; (iv) enhance and clarify communications to consumers regarding direct-to-consumer products; (v) improve consumer education on best practices for

communicating with and engaging the credit reporting industry—including the CRAs and furnishers—so that consumers better understand the important role they play in fostering accurate credit reporting; and (vi) enhance the mechanisms through which the CRAs monitor furnishers to improve the quality of data received from furnishers, and more easily identify data reporting and dispute response trends.

E. Data Accuracy and Quality

1. Reporting of Collection Data

a. The CRAs shall continue to require collection agencies or debt purchasers ("Collection Furnishers") to furnish the name of the Original Creditor and the Metro 2 creditor classification codes (the "Creditor Classification Codes"). The CRAs shall revise training materials and adopt policies and procedures to notify and instruct Collection Furnishers that the name of the Original Creditor and the use of Creditor Classification Codes are mandatory reporting requirements, and the CRAs shall reject data that is not provided with the name of the Original Creditor and the Creditor Classification Codes after a point in time to be determined by the CRAs following reasonable notice to the Collection Furnishers, as set forth in the Implementation Schedule.

b. The CRAs shall implement a process designed to effectively identify Collection Furnishers who misreport or misuse the Creditor Classification Codes on a recurring basis, such as, for example, by using a default value. The CRAs shall take corrective action against Collection Furnishers identified pursuant to this provision.

c. The CRAs shall prohibit Collection Furnishers from reporting debt that did not arise from any contract or agreement to pay (including, but not limited to, certain fines, tickets, and other assessments).

d. The CRAs shall implement a process designed to effectively remove from the CRAs' respective credit reporting databases any existing data reported by Collection Furnishers relating to the collection of debt that did not arise from a contract or agreement to pay. Such efforts may include, but are not limited to, sharing best practices for key words and screening procedures designed to identify debt that did not arise from any contract or agreement to pay.

e. The CRAs shall require Collection Furnishers to regularly reconcile data relating to accounts in collection that have not been paid in full. This regular reconciliation will be accomplished, in part, by periodic removal or suppression of all collection accounts that have not been updated by the Collection Furnisher within the last six months. In addition, the CRAs shall revise training materials and instruct new and existing Collection Furnishers on accurately reporting and deleting accounts that are sold, transferred, or no longer managed by the reporting entity.

2. Retire Metro 1 Reporting Format

Not later than ninety (90) days following the Effective Date, the CRAs shall announce the full retirement of the Metro 1 data reporting format. Thereafter, at the end of a reasonable notice period that provides furnishers with sufficient time to undertake all

steps necessary to migrate to the Metro 2 data reporting format, the CRAs shall no longer accept any data from furnishers utilizing the Metro 1 data reporting format.

3. Medical Collections

a. To allow appropriate time for insurance remediation and clarity on what a consumer's individual payment obligation is for a medical account, the CRAs shall prevent the reporting and display of medical debt identified and furnished by Collection Furnishers when the date of the first delinquency is less than one hundred and eighty (180) days prior to the date that the account is reported to the CRAs.

b. The CRAs shall instruct Collection Furnishers on the use of the Metro 2 special comment codes of "BP" for debt identified as "paid by insurance" and "AB" for debt identified as "being paid through insurance" and instruct Collection Furnishers to remove or suppress medical accounts reported as "paid by insurance" or "being paid through insurance" if such accounts were in fact paid in full by the consumer's insurance carrier and were not the obligation of the consumer.

c. The CRAs shall implement a process designed to effectively remove or suppress known medical collections furnished by Collection Furnishers from files within the CRAs' respective credit reporting databases when such debt is reported either as having been paid in full by insurance or as being paid through insurance.

4. Authorized User Accounts

a. The CRAs shall prohibit furnishers from reporting authorized users without a date of birth (using month and year) on new accounts opened after the date set forth in the Implementation Schedule and reject data that does not comply with this requirement.

b. The CRAs shall inform furnishers of the mandatory reporting requirement relating to additions of authorized users on newly opened accounts and to reject such data that is not provided with a date of birth (using month and year).

5. Minimum Identification Elements on Trade and Collection Data

To expand the CRAs' capabilities to match new credit data to the file of the appropriate consumer, the Working Group that shall be created pursuant to Section IV(H) of this Settlement shall establish minimum standards for the types of indicative information that furnishers of newly opened trade and collection data shall report to the CRAs in order for the CRAs to accept their data. In establishing these standards, the Working Group shall share and analyze data to help identify trends in furnisher reporting and/or consumer disputes that relate to the lack of a particular type of indicative information in order to determine key issues with particular groups of furnishers or reporting practices.

6. Accuracy of Public Record Data

To expand the maximum possible accuracy of public record data, the Working Group shall establish standards regarding the collection of public record data. In

establishing these standards, the Working Group shall consider: (i) the particular practices of the ultimate data source (e.g., the specific courthouse), including how the public record information is filed and its availability and accessibility; and (ii) whether information relating to the satisfaction of judgments and/or other updates is available on a reasonably timely basis from a given public record data source.

F. Consumer Experience

1. Initiating a Dispute

a. Regardless of whether a dispute is initiated online, by phone, or by mail, the CRAs shall not refuse to accept the disputes solely because the consumer (i) has not recently received a credit report or file disclosure from the CRA, or (ii) does not have or has not supplied an identification number associated with a credit report or file disclosure from the CRA.

b. The CRAs shall eliminate any policies or practices that require a consumer to obtain, or that create the impression that a consumer must obtain, a current report or identification number before disputing the completeness or accuracy of information in his or her file.

2. Dispute Information Sharing Among CRAs

The CRAs shall implement an automated process to share with each other the following dispute outcomes for certain consumer disputes processed outside of e-OSCAR.

a. Deceased Indicators

The CRAs shall implement an automated process to share relevant information about consumers who dispute as inaccurate a tradeline for which the furnisher reports a deceased indicator ("Disputed Deceased Indicator") and for which a CRA has investigated and determined to cease reporting such Disputed Deceased Indicator. The CRAs shall develop and share best practices for identifying and preventing inaccurate reporting of Disputed Deceased Indicators, which shall include, but are not limited to, the following actions.

i. Upon the receipt of any shared Disputed Deceased Indicator, the receiving CRAs shall: investigate whether the Disputed Deceased Indicator is associated with the affected consumer in the CRA's credit database; take reasonable steps to avoid reporting any Disputed Deceased Indicator deemed inaccurate; and take other appropriate action to prevent the Disputed Deceased Indicator deemed inaccurate from reappearing on the affected consumer's credit report, including reporting the inaccurate Disputed Deceased Indicator to the furnisher.

ii. The CRAs shall revise training materials and instruct new and existing furnishers on Metro 2 reporting standards for reporting deceased indicators, such that furnishers: consistently and accurately report deceased indicators only at the consumer level, and not at the account

level; and verify documentation that confirms a consumer's death before reporting deceased indicators to the CRAs.

iii. The CRAs shall analyze the CRAs' shared data on Disputed Deceased Indicators to identify trends in consumer disputes with respect to deceased indicators and to determine whether other appropriate actions should be taken to further increase the maximum possible accuracy of tradelines reported as deceased.

b. Death Notices

The CRAs shall implement an automated process to share relevant information about consumers on whom a CRA has received appropriate proof of death, including, but not limited to, death certificates and letters testamentary (each a qualifying "Death Notice") from the consumer's executor, personal representative, or other authorized person representing the consumer's estate. The CRAs shall develop and share best practices for sharing Death Notices among the CRAs, which shall include, but are not limited to, the following actions.

i. Upon receipt of any shared Death Notice, regardless of whether or not the CRAs received the Death Notice independently, the receiving CRAs shall update the credit file of the affected consumer as if the CRAs had received the Death Notice directly from the consumer's executor, personal representative, or other authorized person representing the consumer's estate.

ii. As part of the consumer education enhancements in Section IV(F)(3) of this Settlement, the CRAs shall update their respective websites and cooperate in the creation and approval of educational material to be included on AnnualCreditReport.com advising consumers and their executors, personal representatives, and other authorized persons representing their estates on what documents constitute a valid documentation of death and that Death Notices shall be shared among the CRAs.

iii. The CRAs shall create a common statement to be included in their written communications to persons submitting Death Notices to inform them that the relevant information about consumers identified as deceased shall be shared among the CRAs.

c. Mixed File Information

The CRAs shall implement an automated process to share relevant information about consumers who dispute information contained in their credit reports when a CRA confirms that a consumer's credit file information was mixed with that of another identified consumer (hereafter referred to as a "Confirmed Mixed File"). The CRAs shall develop and share best practices for sharing Confirmed Mixed File information among the CRAs, which shall include, but are not limited to, the following actions.

i. Upon receipt of notice of a Confirmed Mixed File from another CRA, the receiving CRAs shall: conduct a reasonable investigation into whether the disputed information is associated with the affected consumer in the CRA's credit database; and take reasonable steps to avoid reporting any indicative information or tradelines deemed inaccurate because they belong to another identified consumer.

ii. The CRAs shall analyze their shared data on Confirmed Mixed File information and other data concerning the manner of reporting tradelines and indicative information to determine other appropriate actions, if any, that should be taken to reduce the incidence of Confirmed Mixed Files.

iii. The CRAs shall develop guidelines and procedures for communicating with consumers about mixed files and create educational content about mixed files generally, as part of the consumer education enhancements in Sections IV(F)(3) and IV(F)(7)(e) of this Settlement.

3. Enhancing AnnualCreditReport.com.

a. Link to Each CRA's Consumer Dispute Website

i. Subject to regulatory approval under the Credit Card Responsibility Accountability and Disclosure Act of 2009 and accompanying regulation, the CRAs shall enhance the consumer experience on AnnualCreditReport.com to include clear and noticeable hyperlinks directly to each CRA's respective online dispute website and instructions

for consumers on how to initiate a dispute at each of those websites regarding information disclosed in consumers' credit reports. The CRAs shall request the regulatory approval necessary under this provision within ninety (90) days of the Effective Date.

ii. The CRAs shall ensure that the landing website pages corresponding to the hyperlinks on AnnualCreditReport.com and corresponding to each CRA's online dispute portal are free from any advertising, marketing offers, or other solicitations.

b. Enhanced Consumer Educational Content

The CRAs shall update their respective websites and cooperate in the approval and inclusion of consistent educational material on AnnualCreditReport.com to improve consumers' understanding of their credit reports, the consumer dispute process and the types of helpful documentation that should be included with the consumer's dispute, and consumers' roles in helping to promote the goal of assuring maximum possible accuracy in consumer credit reporting. In addition, the CRAs shall enhance consumer education, which shall include, but is not limited to, taking the following actions.

i. The CRAs shall review and enhance consumer educational content related to fraud, identity theft, security freezes, data breaches, submission of Death Notices, consumer disputes of credit report information (including,

but not limited to, Disputed Deceased Indicators), and options for consumers who are dissatisfied with the reinvestigation results.

ii. The CRAs shall work with each other to evaluate consumer dispute analytics to determine whether other issues and credit reporting topics are appropriate to develop educational content for inclusion on AnnualCreditReport.com and on the CRAs' respective websites.

iii. The CRAs shall provide links on the CRAs' respective website that direct consumers to educational material on AnnualCreditReport.com.

iv. The CRAs shall cooperate in the approval and inclusion of consistent educational material on AnnualCreditReport.com regarding: (a) how to file a dispute; (b) the types of Supporting Dispute Documentation most likely to aid the resolution of a consumer's dispute; and (c) how to provide Supporting Dispute Documentation to the CRAs.

4. ***Improving Notifications to Consumers on Reinvestigation Results***

a. Following a CRA's reinvestigation of a consumer dispute, the CRA shall provide consumers a notice that contains standardized elements regarding the nature of the reinvestigation and post-dispute options for the consumer, which notice shall supplement, and not supplant, any notices the CRAs are currently required by law to provide consumers. Such standardized elements shall include, but are not limited to, an explanation of:

i. the actions taken by the CRA regarding the consumer's dispute, including, if applicable, contact information for any furnisher involved in responding to the dispute, a description of the role played by the furnisher in the reinvestigation process, and an explanation of the furnisher's certification of compliance that governs the furnisher's investigative obligations;

ii. the results of the consumer's dispute, including, if applicable, the specific modification or deletion of information that was made to the consumer's file following the reinvestigation; and

iii. the consumer's options if he or she is dissatisfied with the reinvestigation results, which shall include submitting documents in support of the dispute, adding a consumer statement to his or her credit file, filing a dispute with the relevant furnishers, and submitting a complaint against the CRA and/or the relevant furnishers through the Consumer Financial Protection Bureau complaint portal and the consumer's state attorney general.

b. No less than semi-annually, the CRAs shall evaluate consumer dispute analytics to determine whether additional standardized communications to consumers are warranted that would further benefit consumers and improve their satisfaction with dispute outcomes.

5. ***Additional Free Annual Credit Report to Consumers Following Reinvestigation***

The CRAs shall implement a process by which consumers who initiate a dispute of information contained in their free annual credit report disclosure are granted the ability to request one additional free annual credit report disclosure—as authorized by the FCRA, 15 U.S.C. § 1681j(a)—during the twelve-month period following a change to the consumer's file as requested by the consumer in the dispute. This additional free annual credit report disclosure shall be in addition to and shall not diminish any other right of a consumer to request and obtain a free credit report disclosure from any of the CRAs.

6. ***Enhancing e-OSCAR Furnisher Certifications and Terms of Use***

a. The CRAs shall review and update the terms of use agreed to by furnishers using e-OSCAR, as well as the ACDV and AUD certifications made by furnishers through e-OSCAR, in order to: (i) emphasize compliance with furnishers' obligations under the FCRA; (ii) reinforce furnishers' obligations to review and consider images of documents submitted by consumers as part of the furnishers' reinvestigations of consumer disputes; and (iii) incorporate recent regulatory guidance directed at furnishers' responsibilities for handling and investigating consumer disputes.

b. No less than semi-annually, the CRAs shall analyze data on consumer disputes that is available in e-OSCAR to determine whether other actions, if any, should be taken to enhance the e-OSCAR system and furnishers' conduct in processing automated consumer disputes.

7. ***Escalated Dispute Handling***

a. The CRAs shall implement a process to identify and process disputes that qualify for escalated handling. The processes implemented shall not discourage call center personnel or those handling written disputes from escalating disputes or provide the call center personnel or those handling written disputes with incentives to avoid escalation.

b. Subject to Section IV(F)(7)(d) below, the types of complaints that shall qualify for escalated handling include mixed files, fraud, and identity theft. This escalated handling shall include the dispute being assigned to representatives from specialized groups with substantial experience processing these types of disputes, who will process the consumer's dispute through completion and review all relevant information in the consumer's credit file to facilitate a reinvestigation of all items disputed by the consumer and may involve direct communication with the furnisher(s) involved in reporting the tradelines at issue. The Working Group that shall be created pursuant to Section IV(H) of this Settlement shall evaluate consumer dispute analytics to determine whether other types of consumer disputes warrant escalated handling. In addition, the Working Group shall facilitate the sharing among the CRAs of best practices relating to escalated handling.

c. As part of the semi-annual reports regarding the activities of the Working Group that each CRA shall provide to the States' Executive Committee, see

infra Section V, the CRAs shall include, once they become available pursuant to the Implementation Schedule: (i) the number of disputes that qualified for escalated handling, broken down by type of dispute; and (ii) statistics showing the manner in which each disputed tradeline that qualified for escalated handling was resolved.

d. Notwithstanding any of the foregoing, the escalated dispute handling procedures detailed in this Section IV(F)(7) shall apply only with respect to disputes initiated with the CRAs pursuant to direct consumer contacts as provided in the FCRA, 15 U.S.C. § 1681i(a), and the CRAs shall not be required to employ the escalated dispute handling procedures with respect to disputes initiated by credit repair firms or disputes that the CRAs reasonably determine to be frivolous or irrelevant pursuant to 15 U.S.C § 1681i(a)(3).

e. The CRAs shall update their respective websites and cooperate in the approval and inclusion of educational material to be posted on AnnualCreditReport.com that provides information and instruction to consumers who may have disputes regarding their credit reports which qualify for escalated handling.

*8. **Review of Supporting Dispute Documentation Submitted by Consumers***

a. Subject to Section IV(F)(8)(b) below, each CRA shall utilize a process designed to assure that during a CRA's reinvestigation of a dispute of any item of information contained in a consumer's file, if a consumer submits

Supporting Dispute Documentation and the CRA does not otherwise modify the information in the manner requested by the consumer, the Supporting Dispute Documentation shall be reviewed by an agent of the CRA with discretion to make a determination whether to make the change requested by the consumer on the basis of the Supporting Dispute Documentation.

b. Notwithstanding any of the foregoing, the Supporting Dispute Documentation review procedures detailed in this Section IV(F)(8) shall apply only with respect to the disputes initiated with the CRAs pursuant to direct consumer contacts as provided in the FCRA, 15 U.S.C. § 1681i(a), and the CRAs shall not be required to employ the Supporting Dispute Documentation review procedures with respect to disputes initiated by credit repair firms or disputes that the CRAs reasonably determine to be frivolous or irrelevant pursuant to 15 U.S.C § 1681i(a)(3).

9. ***Dispute Documents***

The CRAs shall not only continue to provide notice of a consumer dispute to a furnisher, in accordance with the FCRA, 15 U.S.C. § 1681i, but shall also continue to include with the notice all relevant information, including all relevant documentation, provided by the consumer to the CRAs.

G. Marketing of Direct-to-Consumer Products to Disputing Consumers

1. For consumers who contact a CRA regarding a dispute, the CRA and its Affiliates involved in direct-to-consumer products shall refrain from marketing products

and/or services to consumers before the dispute portion of the telephone call has ended. If, after the dispute portion of the telephone call has ended, the CRA and its Affiliates offer direct-to-consumer products to the consumer, they shall inform such consumers that the purchase of such products is not a precondition in any way for: (a) disputing any information and/or tradeline on their credit report; or (b) exercising any other consumer rights under the FCRA or applicable state laws. The CRA shall adopt training and compliance policies and procedures related to this provision. Failure by an Affiliate involved in direct-to-consumer products to comply with this provision shall result in the CRA taking appropriate action against that Affiliate.

2. The CRAs shall adopt a script for use in post-dispute marketing phone calls that communicates to consumers in clear and comprehensible language when the dispute portion of a telephone call ends and when the marketing of products or services begins. For purposes of this Section IV(G), "products" and "services" do not include security freezes, or any products or services that a consumer affirmatively requests.

3. During a post-dispute marketing phone call, the CRAs shall communicate disclosures to consumers regarding direct-to-consumer products, which are not contradictory or inconsistent with any other information presented, and which shall provide: (i) information disclosing the pricing structure; (ii) information about the nature of the products purchased; (iii) the fact that, if true, by accepting

the offer the consumer is agreeing to make a purchase unless the consumer cancels before the trial period expires; and (iv) cancellation rights and/or automatic renewal terms for membership products.

H. Furnisher Monitoring

1. Working Group

To enhance their respective capabilities for monitoring furnishers, the CRAs shall develop the National Credit Reporting Working Group (the "Working Group"), which shall: (i) catalogue and share best practices for monitoring furnishers; (ii) identify and establish data quality metrics; and (iii) share and compare information and reports among the CRAs to identify further actionable data quality and accuracy initiatives.

2. Composition of the Working Group

The Working Group shall be comprised of internal data experts from each CRA who are knowledgeable about their respective systems, policies, and procedures relating to furnishers and data acquisition. As appropriate, individuals from each CRA with expertise in the consumer dispute process, data quality, matching logic, and other facets of the CRAs' operations will participate in Working Group meetings. Counsel for a CRA may also participate in Working Group meetings.

3. Frequency of Working Group Meetings

The Working Group shall conduct its first meeting during the first calendar quarter following the Effective Date and shall continue to meet quarterly for a period of three (3) calendar years after the Effective Date. Working Group meetings shall be

conducted in person or via teleconference or video conference, but at least one meeting per year shall take place in person.

4. Functions of the Working Group

a. Coordinate and Review Furnisher Analytics and Metrics

The Working Group shall coordinate the development and review of reports and metrics that analyze key data related to furnishers, including but not limited to, on an industry basis (e.g., collections, student loans), on a time-series basis by industry (i.e., a trending analysis that examines data over an extended time period), and/or in the form of benchmarking reports. These reports and metrics may include, but are not limited to, the following topics and purposes:

i. Reports and trends focused on data furnished to the CRAs, including analyses of the accounts receivable data regularly furnished to each CRA (i.e., tradelines), and reports and metrics that focus on rates of consumer complaints, furnisher disputes and responses, and dispute outcomes;

ii. Reports and metrics focused on furnisher reporting by industry, including analyses of the frequency and timeliness of reporting, reports that evidence the proper use of Metro 2 codes, reports on data rejection rates and reasons for rejecting data submitted by a furnisher, and reports on other similar statistical data; and

iii. Benchmarking reports based on factors such as industry, portfolio type, and/or portfolio size, in order to compare the data and trends identified in

the reports described above to further review the quality of the data furnished to the CRAs.

b. Identify Data Accuracy Best Practices

The Working Group shall discuss each CRA's policies and practices pertaining to data accuracy and furnishers in order to identify potential best practices. The Working Group's discussions may include, but not be limited to, topics such as: minimum identification elements on newly opened trade and collection data (see supra Section IV(E)(5)); uniform standards regarding the collection of public record data (see supra Section IV(E)(6)); additional types of consumer disputes that warrant escalated handling, such as certain repeat consumer disputes not previously determined to be irrelevant or frivolous (see supra Section IV(F)(7)); furnisher credentialing and onboarding; data intake procedures; data hygiene tools and procedures; furnisher monitoring techniques; reports and trending analysis tools; policies designed to address fraud and data accuracy risk; credit reporting issues for vulnerable demographics such as foster care youth, seniors, and military personnel; and other policies and procedures designed to enhance data quality. The Working Group shall identify potential best practices and policies designed to lead to more effective furnisher monitoring and/or enhanced data quality and accuracy, which may include communicating with furnishers regarding relevant reports and metrics of the Working Group.

5. Corrective Action Against Certain Furnishers

a. Each CRA shall implement policies to monitor the performance of individual furnishers and categories of furnishers based on the recommendations of the Working Group and/or the CRA's own initiative.

b. Utilizing the metrics established by the Working Group, each CRA shall take corrective action, when reasonably necessary, with respect to a furnisher that fails to comply with its obligations regarding data furnishing and reinvestigating consumer disputes. Such corrective action generally shall be left to the discretion of the CRA to allow for appropriate remediation to correct any identified problems with information provided by the furnisher, up to and including refusing to accept information, or certain types of information, from a furnisher until the identified problems have been remedied. Reasonably necessary corrective action may include working with a furnisher to remediate the root cause of the problem when the furnisher initially fails to meet certain benchmarks established by the Working Group, suppressing certain of the furnisher's data during the remediation process, issuing warnings to furnishers who continue to fail to meet certain benchmarks despite being retrained by the CRAs with respect to the identified problem, and refusing to accept certain information from furnishers that habitually fail to remediate identified problems or are thought to be flouting

their statutory and contractual obligations based on the Working Group's metrics.

6. *Reports on Furnisher Monitoring*

As part of the semi-annual reports regarding the activities of the Working Group that each CRA shall provide to the States' Executive Committee, see infra Section V, the CRAs shall include, once they become available pursuant to the Implementation Schedule: (i) information and/or statistics concerning the furnisher dispute metrics that the Working Group shall establish; and (ii) a description of any material corrective action taken against a furnisher based upon the furnisher dispute metrics, which description shall set forth the overall number of furnishers for which a CRA took material corrective action, the industry groups for the furnishers and the number of furnishers within such industry groups, and a general description of the types of material corrective action taken by the CRA. The CRAs shall compile and retain records of furnishers evaluated under the standards developed under Section IV(H)(5) above as well as any material corrective action taken against furnishers pursuant to such standards. The CRAs shall provide or make available records and reports of furnishers evaluated and material corrective action taken to a State upon request.

V. REPORTING AND COMMUNICATING WITH THE STATES

Each CRA shall provide the following communications to the States:

- beginning six (6) months from the Effective Date, semi-annual updates to the States' Executive Committee concerning the implementation of this Settlement and the

requirements contained herein, except that the final such update shall occur eighteen (18) months following the Completion Date; and

- beginning six (6) months from the Effective Date, semi-annual updates to the States' Executive Committee concerning: (i) implementation of any parameters or best practices as determined by the Working Group; (ii) statistics regarding the escalated dispute handling procedures detailed in Section IV(F)(7) of this Settlement, once they become available pursuant to the Implementation Schedule; and (iii) reports on furnisher monitoring as detailed in Section IV(H)(6), once they become available pursuant to the Implementation Schedule; except that the final such update shall occur eighteen (18) months following the Completion Date.

The semi-annual updates to the States' Executive Committee required under this Section V shall constitute "Confidential" information and, to the extent permitted by applicable law, be subject to the same procedures as other confidential material produced to the States in connection with the States' investigation. To the extent permitted by applicable law, the States and the CRAs acknowledge that the semi-annual updates shall constitute confidential, proprietary, and trade secret material of the CRAs and shall be exempted from any applicable state freedom of information laws due to their content and their production in connection with the States' investigation.

To ensure that consumer complaints brought to the attention of any of the States are handled promptly, the parties agree on the following protocol. The CRAs shall each designate a department or group within their respective companies to assist the States in addressing

consumer complaints. Each CRA shall provide the States with direct contact information for its designated department or group, including at least one telephone number and at least one e-mail address. Each CRA's designated department or group shall then ensure that the CRA responds promptly to the complaint and shall remain a point of contact for the States for any subsequent inquiries related to the complaint.

VI. APPLICATION

The States and the CRAs acknowledge and agree that: (i) the CRAs do not comprise the entire credit reporting industry; (ii) the CRAs cannot require the rest of the industry to adopt and adhere to this Settlement; and (iii) nothing in this Settlement is intended to modify any of the requirements of or the defenses under the FCRA or other applicable federal, state, or local laws.

VII. NO ADMISSION OF LIABILITY

The CRAs expressly deny any violation of and liability arising from any state, federal, or local law, and further expressly deny that any current or prior practice of any CRA (whether in the areas of data accuracy, data quality, furnisher oversight, dispute handling, consumer education, marketing of direct-to-consumer products, or otherwise) is or was deficient in any respect. Nothing contained in this Settlement shall be construed as an admission or concession of liability and/or fact by the CRAs, or create any third-party beneficiary rights or give rise to or support any right of action in favor of any consumer or group of consumers, or confer upon any person other than the parties hereto any rights or remedies. By entering into this Settlement, the CRAs do not intend to create any legal or voluntary standard of care and expressly deny that any practices, policies, or procedures inconsistent with those set forth in this Settlement violate any

applicable legal standard. Further, the parties do not intend that this Settlement be relied upon in any manner by any party in any civil, criminal, or administrative proceeding before any court, administrative agency, arbitration, or other tribunal as an admission, concession, or evidence that any CRA has violated any federal, state, or local law, or that any CRA's current or prior practices (whether in the areas of data accuracy, data quality, furnisher oversight, dispute handling, consumer education, marketing of direct-to-consumer products, or otherwise) is or was not in accordance with any federal, state, or local law.

VIII. CHANGE IN LAW

In the event there is any change in law, whether legislative, regulatory, judicial, or otherwise, that would make compliance with or implementation of any aspect of this Settlement unlawful or create a conflict where the CRAs believe, in good faith, that they cannot comply with both the settlement term(s) and the changed law, the CRAs shall not be required to comply with or implement any such aspect of this Settlement. The CRAs shall provide notice to the States, as soon as the CRAs determine that any aspect of the Settlement is unlawful or creates a conflict, outlining in detail why the CRAs, in good faith, believe compliance with or implementation of any aspect of this Settlement has become unlawful or that a conflict exists where the CRAs cannot comply with both the settlement term(s) and the changed law.

IX. ENFORCEMENT

This Settlement, for all necessary purposes, shall be considered a formal, binding agreement on the parties hereto, which may be enforced only by the parties hereto in any court of competent jurisdiction. Any violation of this Settlement may result in a State seeking all

available relief to enforce this Settlement, including injunctive relief, damages, and any other relief provided by federal law, the laws of the State, or authorized by a court of competent jurisdiction.

Notwithstanding the foregoing, in the event a State determines that any CRA, or any CRA's Affiliate, where applicable, has failed to comply with any of the terms of this Settlement and that such failure to comply does not threaten the health or safety of the State's citizens, the State shall not initiate any action or proceeding pursuant to this Section without first providing written notice to the designated person or department at the CRA of such failure to comply. The CRA shall then have twenty (20) business days from receipt of such written notice to provide a written response to the State. However, nothing herein shall be construed to limit the authority of any State to protect the State's or its citizens' interests or to prevent the State from agreeing to provide the CRA with additional time beyond the twenty (20) business day period to respond to the State's written notice.

The CRAs shall not be deemed in breach of this Settlement based on any failure by a furnisher or other third party to abide by the initiatives set forth in Section IV(E)-(H) of this Settlement, despite the CRAs' having taking reasonably necessary corrective action against that furnisher or third party. In addition, no CRA shall be held in breach of this Settlement based solely on another CRA's breach of the terms of this Settlement.

Except as set forth in Section XI, nothing contained in this Settlement shall be deemed to waive, restrict, or limit any of the State's rights to enforce any federal or state law applicable to the CRAs, and nothing in this Settlement shall be construed as relieving the CRAs or any of their

Affiliates of their obligations to comply with all applicable federal and state laws, regulations, and/or rules. The acceptance of this Settlement by the States shall not be deemed as the States' approval of any of the CRAs' business practices, policies, or procedures.

X. PAYMENT TO THE STATES

Within thirty (30) days after the Effective Date, the CRAs shall collectively pay the total amount of six million dollars ($6,000,000) to the States. At the sole discretion of each Attorney General, the payment shall be used for reimbursement of attorneys' fees and/or investigative costs; used for future public protection purposes; placed in or applied to the consumer protection enforcement fund, consumer education, litigation, or local consumer aid fund or revolving fund, or similar fund by whatever name; or used for other consumer protection purposes permitted by state or local statutes, rules, or regulations. The States and the CRAs acknowledge that the payment described herein is not a fine, civil penalty, or forfeiture.

XI. RELEASE

By execution of this Settlement and following a full and complete payment to the States, each of the Attorneys General releases and forever discharges to the fullest extent of the law the CRAs and each of their Affiliates from the following: all civil claims, causes of action, administrative actions, damages, restitution, fines, costs, and penalties that each of the Attorneys General could have asserted against the CRAs prior to the Effective Date, based on the allegations described in Section I(D) of this Settlement, under the FCRA, the Dodd-Frank Act, each of the States' consumer protection laws relating to unfair and deceptive business acts and practices noted in footnote 3 of this Settlement, or any other federal or state consumer protection

law that each of the Attorneys General is empowered to enforce (collectively, the "Released Claims").

XII. GENERAL PROVISIONS

A. Notices

Any and all notices, requests, consents, directives, or communications sent to the CRAs or the States pursuant to this Settlement shall be sent by a nationally recognized overnight courier service to the named person (or such other person who may be designated by the relevant party from time to time) at the following addresses:

For Equifax Information Services LLC:

John J. Kelley III, Esq.
Chief Legal Officer
Equifax Information Services LLC
1550 Peachtree Street, N.W.
Atlanta, GA 30309

For Experian Information Solutions, Inc.:

Darryl Gibson, Esq.
Group General Counsel
Experian Information Solutions, Inc.
475 Anton Blvd.
Costa Mesa, CA 92626

For TransUnion LLC:

John Blenke, Esq.
EVP and General Counsel
TransUnion LLC
555 W. Adams St.
Chicago, IL 60661

For the States:

Teresa Heffernan
Jeff Loeser
Michael Ziegler
Assistant Attorneys General
Ohio Attorney General – Office of Consumer Protection
30 E. Broad St., 14th Floor
Columbus, OH 43215

B. By agreeing to this Assurance, the CRAs reaffirm and attest to the material truthfulness and accuracy of all of the information provided by the CRAs to the States prior to entry of this Assurance. The States' agreement to this Assurance is expressly premised upon the material truthfulness and accuracy of the information provided by the CRAs to the States throughout the course of the investigation of this matter, which information was relied upon by the States in negotiating and agreeing to the terms and conditions of this Assurance.

C. The CRAs shall not participate, directly or indirectly, in any activity, or form a separate corporation or entity as a nationwide credit reporting agency for the purpose of engaging in acts or practices in whole or in part, within the State, that are prohibited by this Assurance or for any other purpose that would otherwise circumvent any part of this Assurance.

D. The CRAs believe this Settlement fairly and adequately protects the interests of consumers in accepting the terms of this Settlement and that the obligations imposed by this Settlement represent the most fair and most efficient method for the CRAs to resolve the matters raised in the States' investigation.

E. Acceptance of this Assurance by the States shall not be deemed approval by the States of any of the acts or practices of the CRAs described in this Assurance. Further, neither

the CRAs nor anyone acting on their behalves shall state or imply or cause to be stated or implied that the States, or any other governmental unit, has approved, sanctioned, or authorized any of the CRAs' acts or practices.

F. Nothing in this Assurance is intended to create any private rights, cause of action, third party rights, or remedies for any individual or entity against any of the CRAs or their subsidiaries, nor does anything in this Assurance waive or limit any private right of action.

G. This Assurance contains the entire agreement between the parties. In the event that any term, provision, or section of this Assurance is determined to be illegal or unenforceable, subject to consultation with all the parties to this Assurance such determination shall have no effect on the remaining terms, provisions, and sections of this Assurance which shall continue in full force and effect.

H. To the extent any CRA requires to amend this Settlement in a manner that would not affect any other CRA's rights or obligations hereunder, and the States consent to such amendment, this Settlement may be so amended by an instrument in writing signed on behalf of the States and the affected CRA only, which amendment shall apply only to the signatories thereto.

I. The titles and headers in each section of this Assurance are used for convenience purposes only and are not intended to lend meaning to the actual terms and conditions of this Assurance.

J. This Assurance shall not be construed against the "drafter" because all parties participated in the drafting of this Assurance.

K. This Assurance may be executed in counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts may be delivered by facsimile or electronic transmission, or a copy thereof, with the intent that it or they shall constitute an original counterpart hereof.

L. Nothing in this Assurance shall be construed as relieving the CRAs of their obligations to comply with all applicable state and federal laws, regulations or rules.

M. Notwithstanding anything in Section IX or elsewhere in this Assurance, a State shall not file this Assurance in any court unless the law of the State allows it to do so.

N. The CRAs each agree to provide the Commonwealth of Pennsylvania Office of Attorney Genera Bureau of Consumer Protection with authorizations, documents and instruments required to effectuate the filing of this Assurance.

O. Each CRA certifies that the signatory officer listed below is authorized by the respective CRA to enter into this Assurance on behalf of the respective CRA and that his or her signature on this document binds the CRA to all terms herein.

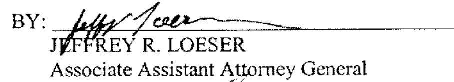
In the Matter of:
Equifax Information Services LLC, (EAGO No. 453892)
Experian Information Solutions, Inc., (EAGO No. 453891) and
TransUnion LLC (EAGO No. 453890)

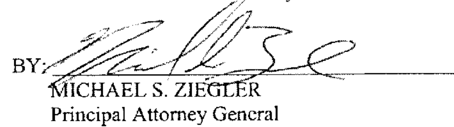
Assurance of Voluntary Compliance / Assurance of Discontinuance

Dated: May 20, 2015

MICHAEL DEWINE
Ohio Attorney General

BY: ______________________
TERESA A. HEFFERNAN
Senior Assistant Attorney General


BY: ______________________
JEFFREY R. LOESER
Associate Assistant Attorney General

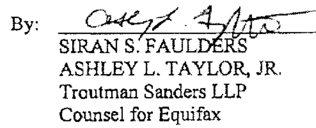

BY: ______________________
MICHAEL S. ZIEGLER
Principal Attorney General

In the Matter of:
Equifax Information Services LLC,
Experian Information Solutions, Inc., and
TransUnion LLC

Assurance of Voluntary Compliance / Assurance of Discontinuance

Dated: ~~April~~ May 12, 2015

EQUIFAX INFORMATION SERVICES LLC

By: 
SIRAN S. FAULDERS
ASHLEY L. TAYLOR, JR.
Troutman Sanders LLP
Counsel for Equifax

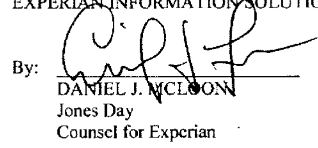
By:
JOHN J. KELLEY III
Chief Legal Officer

In the Matter of:
Equifax Information Services LLC,
Experian Information Solutions, Inc., and
TransUnion LLC

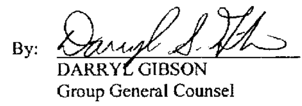
Assurance of Voluntary Compliance / Assurance of Discontinuance

Dated: May 14, 2015

EXPERIAN INFORMATION SOLUTIONS, INC.



By: ______________________
DANIEL J. MCLOON
Jones Day
Counsel for Experian



By: ______________________
DARRYL GIBSON
Group General Counsel

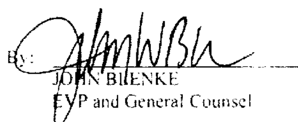
In the Matter of:
Equifax Information Services LLC.
Experian Information Solutions, Inc., and
TransUnion LLC

Assurance of Voluntary Compliance / Assurance of Discontinuance

Dated: May 11, 2015

TRANSUNION LLC

By: ______________________
CLAUDE G. SZYFER
Stroock & Stroock & Lavan LLP
Counsel for TransUnion



By: ______________________
JOHN BLENKE
EVP and General Counsel

In the Matter of:
Equifax Information Services LLC,
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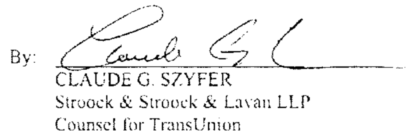
By: 
CLAUDE G. SZYFER
Stroock & Stroock & Lavan LLP
Counsel for TransUnion

By: ______________________
JOHN BLENKE
EVP and General Counsel

Exhibit A

Fair Credit Reporting Act § 607(b), 15 U.S. Code § 1681e
Compliance procedures

(b) Accuracy of report

Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

Exhibit B

Fair Credit Reporting Act § 611, 15 U.S. Code § 1681i
Procedure in case of disputed accuracy

(a) Reinvestigations of disputed information

(1) Reinvestigation required

(A) In general

Subject to subsection (f) of this section, if the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly, or indirectly through a reseller, of such dispute, the agency shall, free of charge, conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer or reseller.

(B) Extension of period to reinvestigate

Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for not more than 15 additional days if the consumer reporting agency receives information from the consumer during that 30-day period that is relevant to the reinvestigation.

(C) Limitations on extension of period to reinvestigate

Subparagraph (B) shall not apply to any reinvestigation in which, during the 30-day period described in subparagraph (A), the information that is the subject of the reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

(2) Prompt notice of dispute to furnisher of information

(A) In general

Before the expiration of the 5-business-day period beginning on the date on which a consumer reporting agency receives notice of a dispute from any consumer or a reseller in accordance with paragraph (1), the agency shall provide notification of the dispute to any person who provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer or reseller.

(B) Provision of other information

The consumer reporting agency shall promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer or the reseller after the period

referred to in subparagraph (A) and before the end of the period referred to in paragraph (1)(A).

(3) Determination that dispute is frivolous or irrelevant

(A) In general

Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

(B) Notice of determination

Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer of such determination not later than 5 business days after making such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

(C) Contents of notice

A notice under subparagraph (B) shall include—

(i) the reasons for the determination under subparagraph (A); and

(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

(4) Consideration of consumer information

In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.

(5) Treatment of inaccurate or unverifiable information

(A) In general

If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall—

(i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and

(ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.

(B) Requirements relating to reinsertion of previously deleted material

(i) Certification of accuracy of information If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.

(ii) Notice to consumer If any information that has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing not later than 5 business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.

(iii) Additional information As part of, or in addition to, the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing not later than 5 business days after the date of the reinsertion—

(I) a statement that the disputed information has been reinserted;

(II) the business name and address of any furnisher of information contacted and the telephone number of such furnisher, if reasonably available, or of any furnisher of information that contacted the consumer reporting agency, in connection with the reinsertion of such information; and

(III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

(C) Procedures to prevent reappearance
A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).

(D) Automated reinvestigation system
Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.

(6) Notice of results of reinvestigation

(A) In general

A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection not later than 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.

(B) Contents
As part of, or in addition to, the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing before the expiration of the 5-day period referred to in subparagraph (A)—

(i) a statement that the reinvestigation is completed;

(ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;

(iii) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the business name and address of any furnisher of information contacted in connection with such information and the telephone number of such furnisher, if reasonably available;

(iv) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and

(v) a notice that the consumer has the right to request under subsection (d) of this section that the consumer reporting agency furnish notifications under that subsection.

(7) Description of reinvestigation procedure
A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iii) by not later than 15 days after receiving a request from the consumer for that description.

(8) Expedited dispute resolution
If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with paragraphs (2), (6), and (7) with respect to that dispute if the agency—

(A) provides prompt notice of the deletion to the consumer by telephone;

(B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with subparagraph (C), a statement of the consumer's right to request under subsection (d) of this section that the agency furnish notifications under that subsection; and

(C) provides written confirmation of the deletion and a copy of a consumer report on the consumer that is based on the consumer's file after the deletion, not later than 5 business days after making the deletion.

(b) Statement of dispute
If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Notification of consumer dispute in subsequent consumer reports
Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

(d) Notification of deletion of disputed information
Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) of this section to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.

(e) Treatment of complaints and report to Congress
(1) In general
The Commission shall—

(A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 1681a(p) of this title contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a) of this section; and

(B) transmit each such complaint to each consumer reporting agency involved.

(2) Exclusion

Complaints received or obtained by the Bureau pursuant to its investigative authority under the Consumer Financial Protection Act of 2010 shall not be subject to paragraph (1).

(3) Agency responsibilities
Each consumer reporting agency described in section 1681a(p) of this title that receives a complaint transmitted by the Bureau pursuant to paragraph (1) shall—

(A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this subchapter (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;

(B) provide reports on a regular basis to the Bureau regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and

(C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.

(4) Rulemaking authority
The Commission may prescribe regulations, as appropriate to implement this subsection.

(5) Annual report
The Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Bureau under this subsection.

(f) Reinvestigation requirement applicable to resellers
(1) Exemption from general reinvestigation requirement
Except as provided in paragraph (2), a reseller shall be exempt from the requirements of this section.

(2) Action required upon receiving notice of a dispute
If a reseller receives a notice from a consumer of a dispute concerning the completeness or accuracy of any item of information contained in a consumer report on such consumer produced by the reseller, the reseller shall, within 5 business days of receiving the notice, and free of charge—

(A) determine whether the item of information is incomplete or inaccurate as a result of an act or omission of the reseller; and

(B) if—

(i) the reseller determines that the item of information is incomplete or inaccurate as a result of an act or omission of the reseller, not later than 20 days after receiving the notice, correct the information in the consumer report or delete it; or
(ii) if the reseller determines that the item of information is not incomplete or inaccurate as a result of an act or omission of the reseller, convey the notice of the dispute, together with all relevant information provided by the consumer, to each consumer reporting agency that provided the reseller with the information that is the subject of the dispute, using an address or a notification mechanism specified by the consumer reporting agency for such notices.

(3) Responsibility of consumer reporting agency to notify consumer through reseller
Upon the completion of a reinvestigation under this section of a dispute concerning the completeness or accuracy of any information in the file of a consumer by a consumer reporting agency that received notice of the dispute from a reseller under paragraph (2)—

(A) the notice by the consumer reporting agency under paragraph (6), (7), or (8) of subsection (a) of this section shall be provided to the reseller in lieu of the consumer; and

(B) the reseller shall immediately reconvey such notice to the consumer, including any notice of a deletion by telephone in the manner required under paragraph (8)(A).

(4) Reseller reinvestigations
No provision of this subsection shall be construed as prohibiting a reseller from conducting a reinvestigation of a consumer dispute directly.

February 25, 2019

The Honorable Maxine Waters, Chairwoman
Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Patrick McHenry, Ranking Member
Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the members of the National Apartment Association (NAA) and the National Multifamily Housing Council (NMHC), we applaud the Committee for calling tomorrow's hearing, "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System." As an industry that relies heavily on accurate consumer and credit reporting, we appreciate the Committee's willingness to explore these critical issues.

The apartment housing industry has long advocated for improvement in the current credit reporting regime for renters. Historically, credit reporting agencies have not captured a complete picture of their financial performance. Existing credit scoring models that drive approvals, interest rates and other terms of apartment leases, car loans, insurance products, home mortgages and other financial products often do not accurately reflect the creditworthiness of renters. Apartment living attracts a wide variety of Americans making it critical that credit reports and scoring models are modernized to prevent renters from being put at a financial disadvantage.

The good news is that more credit reporting agencies and central data aggregators are collecting alternative data such as rental payments, medical payments, utility payments and other payment records. Unfortunately, the most widely used credit scoring model - FICO Classic - does not incorporate this additionally reported data. Credit scoring models are evolving to include this new data as well as to update their existing algorithms for evaluating credit decisions. We applaud this movement.

Any reforms in the credit reporting system should not unduly limit the information available to apartment housing providers to make educated evaluations of the creditworthiness of applicants. While we strongly support the Committee's efforts to ensure transparency and accuracy in credit reporting, we must raise caution around language included in the "Comprehensive Consumer Credit Reporting Reform Act of 2019" which shortens the time most adverse credit information stays on consumer reports. Limiting such reportable data forces housing providers to increasingly rely on credit scores to make decisions which, while important, can be a blunt instrument that does not provide a detailed picture of an individual's credit history. In short, over reliance on credit scores alone may inadvertently harm the very individuals this legislation intends to help.

There has been a fundamental transformation in our nation's housing dynamics as changing demographics and lifestyle preferences have driven more people away from the typical suburban house and towards the convenience of renting. It is more important than ever to ensure that policymakers move carefully with reform efforts and promote credit scoring models that incorporate the most complete financial picture of renters.

Thank you for holding this important hearing and for the opportunity to present the views of the apartment housing industry.

Sincerely,

Robert Pinnegar, CAE
President & CEO
National Apartment Association

Douglas M. Bibby
President
National Multifamily Housing Council

February 26, 2019

Re: For the Hearing: **Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System**

Dear Chairwoman Maxine Waters and Members of the House Financial Services Committee:

The National Association of Consumer Advocates is grateful for your efforts to examine and fix the broken credit reporting system. NACA is a national nonprofit association of consumer advocates actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means.

The U.S. credit reporting system has longstanding problems independent of Equifax's notorious data breach of 2017. The massive data security violation, which exposed the private information of over half the U.S. adult population and put their financial lives at risk, rightly dominated headlines in late 2017. Indeed, no real solutions have been implemented to prevent future breaches, and even worse, the credit reporting landscape has been a landmine for consumers even before the advent of the breaches.

Credit reporting, which is the leading category of complaints that the Consumer Financial Protection Bureau receives from the American public, is fraught with widespread, systemic drawbacks that have had a devastating financial impact on millions of consumers' lives.

Despite the 40-year existence of a crucial consumer protection law, the Fair Credit Reporting Act, the fundamental flaws in the credit reporting system have interfered with American consumers' livelihood, including their access to fairly priced credit, housing, affordable insurance, and jobs. The rapid development of new technologies and ever-expanding proliferation and transfer of consumer data from one party to another complicates the issue even more. Meanwhile, needed enhancements to consumers' legal rights and privacy protections have not kept up with the changes in the market.

The time is ripe for Congress to examine old and new problems and consider meaningful corrections to protect consumers.

Consumer credit reports are being flooded with inaccurate information and there is little they can do about it. Angela Williams discovered that her Equifax credit report included at least 25 accounts that belonged to another woman with a similar name and social security

number. Even after sending multiple disputes to Equifax, more accounts continued to appear and debt collectors began pursuing Angela for a stranger's debts. It took 13 years and a jury trial to fix Angela's credit report.

Though Angela Williams' case may seem extreme, she is far from alone. A comprehensive 2013 Federal Trade Commission Study found that one in five American consumers had a material error on a credit report from one of three major credit reporting companies. An FTC survey also found that more than half of the consumers who attempted to fix the errors believed their credit reports still contained inaccuracies even after the consumer reporting agency's (CRAs) investigation was completed. The FCRA requires the consumer reporting company to conduct a reasonable reinvestigation and update the file to reflect any necessary changes or delete the item.

The credit reporting system needs strict guidelines to ensure consumers will benefit from thorough investigations when errors appear on their credit reports. In the last few years, the Consumer Financial Protection Bureau has used its supervisory authority to order CRAs to make significant improvements to their dispute handling, but consumers need additional rights and protections in their interactions with credit reporting companies, as well as with the corporate entities that share or use incorrect information.

NACA strongly supports the Comprehensive Consumer Credit Reporting Reform Act of 2019. The bill aims to enhance consumer protections in the credit reporting system. It would:

- Fix the broken system for credit reporting disputes by (1) giving consumers a new right to appeal the results of initial disputes; (2) requiring CRAs and furnishers of information to dedicate sufficient resources and provide well-trained personnel to handle disputes; (3) requiring CRAs to conduct an independent analysis of disputes, separate from that of the furnisher; and (4) requiring furnishers to retain records for the same time period that negative information remains on reports.

- Improve credit reporting accuracy by directing the Consumer Financial Protection Bureau (CFPB) to establish accuracy regulations, including requiring CRAs to better monitor furnishers for high error rates and to use stricter criteria to match information from a lender to a consumer's file, preventing the worst type of credit reporting error, the "mixed file."

- Restrict the use of credit information for employment.

- Help victims of abusive lending and overly punitive negative reporting practices by (1) reducing the retention periods that adverse credit information remains on reports to four years (seven years for bankruptcies); (2) allowing borrowers victimized by the unfair,

deceptive or abusive practices of mortgage lenders or servicers to have adverse mortgage-related information removed; and (3) requiring the removal of negative information about private education loans that were obtained to attend for-profit colleges found to have engaged in unfair or deceptive practices.

- Protect consumers from the unfair impact of medical debt by prohibiting CRAs from including medical collections on reports until 180 days from the date of first delinquency.

- Help consumers understand their creditworthiness by giving consumers the right to a free credit score at the same time that they obtain their free annual consumer report.

- Address misleading marketing of credit monitoring subscriptions and increase access for security freezes to prevent identity theft.

- Allow struggling private education loan borrowers to rehabilitate impaired credit records through requiring removal of adverse information about delinquent or defaulted loans if they are able to make nine out of ten on-time, monthly payments.

- Correct provisions in last year's deregulatory law, S2155, that preempted states from further improvements to the credit freeze laws and provided servicemembers with credit monitoring right without a remedy.

Credit reporting reform is urgently needed to right serious credit reporting flaws. American consumers' credit scores and credit histories have come to permeate almost every economic aspect of our lives. A system this important and inescapable should not be allowed to stay broken any longer. A better way is possible.

Sincerely,

Christine Hines
Legislative Director
National Association of Consumer Advocates

NAFCU

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National Association of Federally-Insured Credit Unions

Carrie R. Hunt
Executive Vice President of Government Affairs
and General Counsel

February 25, 2019

The Honorable Maxine Waters	The Honorable Patrick McHenry
Chairwoman	Ranking Member
Committee on Financial Services	Committee on Financial Services
United States House of Representatives	United States House of Representatives
Washington, DC 20515	Washington, DC 20515

Re: Tomorrow's Hearing "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"

Dear Chairwoman Waters and Ranking Member McHenry:

I write to you today on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing entitled "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System." NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 115 million consumers with personal and small business financial service products. We thank the Committee for their focus on improving the credit reporting system.

The foundation of America's national consumer credit system is the *Fair Credit Reporting Act*, enacted by Congress in 1970 to streamline credit reporting and provide consumers with protection from inaccurate and inappropriate disclosures of personal information by consumer reporting agencies. Credit bureaus collect and compile information about consumers' creditworthiness from financial institutions, public records, and other sources. Credit unions rely on this national credit system to assess lending risk, manage portfolios, detect fraud, acquire new members and grow those relationships. That is why we support a strong, robust and secure credit bureau system.

NAFCU and its member credit unions have also long advocated for the use of alternative models that more accurately capture creditworthy borrowers and permit them to access affordable credit. Credit unions have unique relationships with their members and should be permitted to choose the credit score model that best accommodates their members. NAFCU believes that improvements can be made to the current credit scoring system that allow credit unions to better serve their members without creating onerous new burdens. We thank Chairwoman Waters for advancing this debate by offering a draft proposal to reform the consumer credit reporting system. We are reviewing the proposal and look forward to offering feedback on it; we want to ensure that any changes to the current system do not unintentionally burden credit unions.

The recent Equifax data breach also highlighted the need for addressing consumer data security issues at national credit bureaus and beyond. As NAFCU has long advocated to the Committee, there is a need for a national data security standard for entities that collect and store consumers' personal and financial information that are not already subject to the same stringent requirements as depository institutions.

Unfortunately, data breaches have become a constant concern of the American people. Major data breaches now occur with an unacceptable level of regularity. A recent Gallup poll found that 69 percent of U.S. adults are frequently or occasionally concerned about having their credit card information stolen by hackers. These staggering survey results speak for themselves and should demonstrate the need for greater national attention to this issue.

While credit bureaus, such as Equifax, are governed by data security standards set forth by the *Gramm-Leach-Bliley Act* (GLBA), they are not examined by a regulator for compliance with these standards in the same manner as depository institutions. Additionally, the recent Equifax breach reportedly occurred via a "known" security vulnerability that software companies had issued a patch to fix several weeks prior. If Equifax had acted to remedy the vulnerability in a reasonable period of time, this breach may not have occurred. When a breached entity knew or should have known about a threat, and fails to act to mitigate it, the negligent company must be held financially liable.

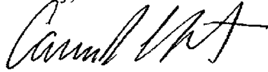
Credit unions suffer steep losses in re-establishing member safety after a data breach like the one at Equifax and are often forced to absorb fraud-related losses in its wake. Credit unions and their members are victims in this breach, as members turn to their credit union for answers and support when such breaches occur. As not-for-profit cooperatives, credit union members are the ones that are ultimately impacted by these costs.

Negligent entities should be held financially liable for any losses that occurred due to breaches on their end so that consumers aren't left holding the bag. When a breach occurs at a credit bureau, depository institutions should be made aware of the breach as soon as practicable so they can proactively monitor affected accounts. Furthermore, compliance by credit bureaus with GLBA and these notification requirements should be examined for, and enforced by, a federal regulator. Finally, any new rules or regulations to implement these recommendations should recognize credit unions' compliance with GLBA and not place any new burdens on them.

We thank you for examining this important topic today. NAFCU stands ready to work with you to address our concerns regarding reform of the consumer credit reporting system and establishing a national data security standard that will not only ensure the security of the credit bureau system, but also consumer financial data held by others, such as retailers.

On behalf of our nation's credit unions and their more than 115 million members, we thank you for your attention to this important matter. Should you have any questions or require any additional information please contact me or Brad Thaler, NAFCU's Vice President of Legislative Affairs, at 703-842-2204 or bthaler@nafcu.org.

Sincerely,



Carrie R. Hunt
Executive Vice President of Government Affairs and General Counsel

cc: Members of the House Financial Services Committee

March 1, 2019

The Honorable Maxine Waters
Chairwoman
Financial Services Committee
United States House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Financial Services Committee
United States House of Representatives
Washington, D.C. 20515

Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System
February 26, 2019

Chairwoman Waters, Ranking Member McHenry, and members of the Committee,

On behalf of the National Housing Law Project (NHLP), I appreciate the opportunity to submit a statement for the record. NHLP is an education, advocacy, and litigation non-profit dedicated to advancing housing justice for poor people and communities. NHLP works to strengthen and enforce the rights of tenants, increase housing opportunities for underserved communities, and preserve and expand the nation's supply of safe and affordable homes.

We know that automated tenant screening procedures, including credit reporting from consumer reporting agencies (CRAs), are having an increasingly outsized influence on rental admission decisions made by housing providers. Often, the data provided in these screening reports does not tell the whole story of the applicant's record, and a report may include incorrect information. The use of this data in rental decisions has significantly disproportionate impacts restricting admission or denying housing opportunities to poor people and people of color.[1]

While current legislation before the Committee makes necessary and welcome improvements to the Fair Credit Reporting Act (FCRA), the bills do not explicitly identify access to housing and tenant screening report reforms as priorities, and we believe that this is an important consideration.

We applaud the proposals under consideration, and we encourage the Committee to consider the following additional reforms to consumer reporting:

Consider Eviction Records
The bills referenced during this hearing seek to impose limits on how long adverse information remains on a consumer's credit score. **We strongly support reducing the length of the reporting period for civil cases and criminal convictions.** In addition, we would recommend prohibiting CRAs from using data on arrests alone, expunged or sealed records, and juvenile adjudications.

Additionally, we believe that reporting on evictions should be limited – similar to the civil judgment reforms proposed – and that this would improve applicants' ability to access the rental market. We also strongly encourage the Committee to limit reporting only on evictions that result in judgment against a

[1] See HUD, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions, p. 2 (Apr. 4, 2016).

tenant and to exclude eviction filings without a judgment or cases won by the tenant.

Tighten Reinvestigation Provisions

We welcome improvements to the dispute and reinvestigation procedure. We are especially appreciative of the training and competency requirements for CRA investigators and the improved appeal mechanism. While the proposals establish an "expedited" dispute resolution procedure that would incentivize CRAs to resolve reporting disputes more quickly, these proposals do not make this expedited process mandatory. Rental applicants may miss out on available units while awaiting resolution of these disputes. We recommend a mandatory shorter period for resolving consumer disputes, especially when applicable to rental housing applications. Alternatively, landlords with more than three dwelling units who use consumer reports to screen tenants could be required to maintain vacancies to reasonably accommodate dispute resolution.

Increase Consumers' Options for Responding to Adverse Action

The proposed legislation does not currently offer consumers opportunities for recourse after notice of adverse action. Consumers are often unable to bring suit for a landlord's (or other report user's) violation of its duty to give adverse action notice.[2] Further, the notices do not require disclosure of the reason(s) for the adverse action. These challenges are especially burdensome in the context of rental applications, where the reason(s) for denial are often not apparent in a tenant screening report, and a landlord's failure to give notice may cause additional delays. The consequence of these delays – including missed opportunities to rent available units – are significant.

We urge the Committee to consider systemic reforms that improve consumers' options to respond to adverse actions.

Implement Human Review and Decision-making in Dispute Resolutions

The full automation of credit reporting and adjudication processes limits the rights of consumers to appropriately review and contest records that have a substantive impact on their access to financing, employment, insurance, and housing. Any judgments based solely on automated processing, especially those that impede upward mobility, limit the full rights of consumers. Further, these reports often deliver false information, result in unnecessary delays, and lead to ill-informed decisions.

While we would encourage the Committee to improve the full credit reporting system by guaranteeing consumers will not be subject to fully automated review of their credit reports; we believe the most pressing need for human review exists when applicants seek access to rental housing.

We believe the proposed legislation is an excellent step toward increasing the rights and protections of consumers in credit reporting. We would encourage the Committee to see the potential for this legislation to improve outcomes for renters attempting to access the housing market, and continue to expand opportunity.

We are grateful for the opportunity to work with this Committee to address the concerns of consumers attempting to access the market – specifically to secure safe, stable, and affordable housing. We believe

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[2] Notably, at least one federal judge reviewing this issue found Congress' elimination of this private right of action, which occurred in the 2003 Fair and Accurate Transactions Act and is now codified at 15 U.S.C. § 1681m(h)(8), to have been "a drafting error" that was "enacted by mistake and contravenes the law's true object and design." See *Barnette v. Brook Rd., Inc.*, 429 F.Supp.2d 741, 749 (E.D.Va. 2006).

that the Committee is making great strides to improve consumer access and hold CRAs to account. We support these efforts and welcome any opportunities to provide further evidence or expertise to further the cause.

Sincerely,

Shamus Roller
Executive Director
National Housing Law Project

January 25, 2019

Craig Boundy
CEO
Experian North America
475 Anton Blvd.
Costa Mesa, CA 92626

Mark Begor
Chairman and CEO
Equifax, Inc.
1550 Peachtree Street, N.W.
Atlanta, Georgia 30309

James M. Peck
President and CEO
TransUnion
555 West Adams Street
Chicago, Illinois 60661

Francis Creighton
President and CEO
Consumer Data Industry Association
1090 Vermont Ave., NW, Suite 200
Washington, D.C. 20005

Dear Sirs:

The undersigned consumer, civil rights, and advocacy groups write to urge your companies to take affirmative steps to help the credit histories of employees of federal contractors and owners/employees of small businesses impacted by the current partial shutdown of the federal government. This letter follows up on our letter of January 18, 2019, which urged your companies to take steps to help the credit histories of federal workers impacted by the shutdown.

As with federal workers, the shutdown has resulted in employees of federal contractors, such as security guards and janitors, missing paychecks. Small businesses that rely on federal workers for revenue, such as mom & pop cafes near federal buildings, have also suffered economically during this shutdown. As a result, the employees of these contractors and the owners/employees of these small businesses have been deprived of the income needed to pay their bills, including credit obligations. The shutdown will likely result in harm to the credit reports of many of these hard-working consumers, and lower their credit scores.

We recognize that the credit bureaus may not have adequate information in their files to indicate which consumers are the employees of a federal contractor or small businesses affected by the shutdown. However, we believe the credit bureaus can do more than passively rely on creditors to provide forbearances and, if they do, to properly report such forbearances and refrain from reporting negative information.

Thus, we call upon the credit bureaus to institute a special program in which employees of federal contractors and employees/owners of small businesses affected by the shutdown can apply directly to the credit bureaus for credit reporting relief. If a consumer can provide documentation that they are employed by a federal contractor or a small business, or own a small business, affected by the shutdown and have been deprived of income because of the shutdown, they should be able to have negative information such as delinquencies or collections removed from their credit reports. Such documentation could include:

- For employees of federal contractors, a letter from their employer stating that the employee was furloughed or otherwise unemployed due to the shutdown.
- For small business owners, financial records showing a loss of revenue and a statement explaining how this was the result of the shutdown.

- For employees of small business owners, a statement from the owner that the employee's hours or income were reduced or eliminated due to the shutdown.

We urge that the documentation needed for credit reporting relief be simple, easy to obtain, and not onerous, so that it does not deter employees or small business owners who desperately need credit reporting relief.

Thank you for your consideration. If you have any questions about this letter, please contact Chi Chi Wu, National Consumer Law Center, at 617-542-8010 or cwu@nclc.org.

Sincerely,

National Groups
National Consumer Law Center (on behalf of its low-income clients)
Americans for Financial Reform Education Fund
CAARMA Consumer Advocates Against Reverse Mortgage Abuse
Consumer Action
Demos
The Disaster Law Project
NAACP
National Association of Consumer Advocates
National Community Action Foundation
National Community Reinvestment Coalition (NCRC)
National Fair Housing Alliance
National Urban League
Prosperity Now
Public Citizen
U.S. PIRG

State and Local Groups
AkPIRG (AK)
Arizona Coalition to End Sexual & Domestic Violence
Arizona Council of Human Service Providers
Center for Economic Integrity (AZ)
PHOENIX IDA (AZ)
World Hunger Ecumenical Arizona Task-Force (WHEAT)
Wildfire: Igniting Community Action to End Poverty in Arizona (AZ)
East Bay Community Law Center (CA)
The Utility Reform Network (TURN) (CA)
Jacksonville Area Legal Aid, Inc. (FL)
New Jersey Citizen Action
Empire Justice Center (NY)
Public Utility Law Project of New York
Citizens Coalition (OH)
VOICE – OKC (OK)
Virginia Citizens Consumer Council (VA)
Virginia Poverty Law Center (VA)

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FACT SHEET

December 2018

Latino Banking in 2017:

A Snapshot of the FDIC National Survey of Unbanked and Underbanked Households*

Background

On October 24, 2018, the Federal Deposit Insurance Corporation (FDIC) released a new survey—the 2017 FDIC National Survey of Unbanked and Underbanked Households—to estimate the share of U.S. households that do not participate or have trouble fully participating in the banking system.† Access to banking services is critical to helping families maximize their income and save, yet many American families—especially Latinos‡—remain outside of the financial mainstream.

Unbanked: individual did not have a checking or a savings account with a federally insured financial institution.

Underbanked: individuals had a bank account, but they also obtained alternative financial services (AFS) in the past 12 months.

Transaction Alternative Financial Services (AFS): nonbank products and services to conduct financial transactions, such as money orders, check cashing, and international remittances products. There is a high cost associated with transaction AFS due to repeated usage of one-time services, such as cashing a check, for which the interest rate is often two or three times higher than that of a traditional bank.[1]

Credit Alternative Financial Services (AFS): nonbank products that may be used in lieu of bank credit: payday loans, refund anticipation loans, rent-to-own services, pawn shop loans, and auto title loans. Many of these products, such as payday loans that can reach up to 400% APR, offer quick cash or goods but are often much more expensive when compared to consumer installment loans offered by insured institutions.

Both unbanked and underbanked households have an increased financial burden to complete the most basic financial transactions which can result in deeper financial insecurity.[2]

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* This profile was authored by Sabrina Terry, Senior Strategist with the Economic Policy Project in UnidosUS' Policy and Advocacy Department, with substantive guidance and review from Samantha Vargas Poppe, Director, Policy Analysis Center, Jennifer Brown, Senior Economic Policy Advisor, and Marisabel Torres, Senior Economic Policy Analyst. This profile was funded by the Citi Foundation. The findings and conclusions presented are those of the author and UnidosUS alone and do not necessarily reflect the opinions of our funder. Permission to copy, disseminate, or otherwise use information from this paper is granted, provided that appropriate credit is given to UnidosUS.

† The FDIC National Survey of Unbanked and Underbanked Households data may depict slightly better circumstances for households since it uses online survey instruments to collect the data, which more affluent communities are more likely to respond to

‡ The terms "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race.

Latinos have had long-standing challenges connecting to mainstream financial institutions. Since the initial FDIC survey was released in 2009, Latinos have had excessively high rates of unbanked and underbanked households. For example, in 2017, the data shows Latino households remained disproportionately disconnected from mainstream financial services. Latinos represented 18% of the 2017 U.S. population[3], 14% of the unbanked population, and 28.9% of the underbanked population. A more inclusive financial system is essential to the economic security of this growing base of the U.S. population and their ability to contribute to the nation's financial system.

Using data from the 2017 national survey, this fact sheet examines the banking status, account access methods, credit access, and methods for conducting financial transactions among Latino and White households.

Banking Status of Latinos

More Latinos are entering the financial mainstream and managing their finances with insured institutions.

- The rate of unbanked Latinos has continuously decreased since 2009—reaching the lowest rate in almost a decade.
- In 2017, 14% of Latinos were unbanked, compared to 16% in 2015, 18% in 2013, and 20% in 2011 and 2009.
- For Latinos who did not own a bank account, one-in-three (31.4%) stated that "not having enough money" was the reason for not owning an account. This reason was followed by nearly one-in-seven (13%) who shared a distrust of banks and one-in-10 (10.5%) who stated that account fees are too high.
- Volatility of Latino incomes may influence the usage of a bank account. In 2017, 19.3% of Latinos reported having income over the last 12 months that "varied somewhat month to month," compared to 15.8% of Whites. Similarly, 4.2% of Latinos compared to 3.8% of Whites reported having an "income [that] varied a lot month to month" during the previous 12 months.

Rates of underbanked Latinos has remained nearly the same over the last eight years.

- In 2017, 28.9% of Latinos were underbanked, compared to 29.3% in 2015, 28.6% in 2013, and 24% in 2009.
- In 2017, 31.9% of Latinos owned only a checking account and 3.1% owned only a savings account.
- Savings account ownership for Latinos remained almost unchanged between 2013 and 2017—increasing from 66.3% to 68.1%.
- Spanish-only speakers are more likely to have only a checking account or a savings account, than to have both types of accounts. Savings account ownership for Spanish-only speakers fluctuated slightly since 2013—decreasing from 52.6% in 2013 to 50.3% in 2015, and then back up to 53.1% in 2017.

Primary Methods Used to Access Bank Accounts

Online and mobile banking has grown to be a more prominent form of access to financial services for Latinos.

- In 2017, slightly more than one-in-four (25.8%) Latinos used online banking as their primary method to access their bank accounts.
- Latinos' use of mobile banking has more than doubled since 2013 and remains higher than that of Whites. Latinos' use of mobile banking grew from 8.3% in 2013 to 19.3% in 2017, compared to White households whose rates grew from 5% in 2013 to 15.3% in 2017.

- Latinos' use of mobile banking is most likely to increase, as younger Latinos age into the financial market, and as financial technology (fintech) companies expand their services to traditionally underserved borrowers.

As the use of online and mobile banking has increased, the rate of Latinos who visited a bank teller or an ATM to access their accounts has decreased.

- The most common online and mobile activity used by Latinos was to check e-mail sent from a bank about an account, performed by 49.6% of Latinos. Other common activities included: receiving text message alerts (39.8%) and checking their account balances and transactions using their mobile device (37%).
- In 2017, 25.9% of Latinos used bank tellers as the primary method of accessing their account—a decrease of 3.4% since 2015 and an 8.1% decrease since 2013. The use of ATMs by Latinos has steadily declined since 2013 but remains the third most common way for Latinos to access their accounts, after bank tellers and online transactions.

Bank tellers and ATMs remain an important access point for certain segments of the Latino population—specifically lower-income households, seniors, and Latinos in rural areas.

- Spanish-only speakers were more likely to visit a bank teller than non-Spanish speakers. In 2017, 41.7% of Spanish-only speakers visited a bank teller as their primary method of access, versus 23.8% of non-Spanish-only speakers.

Methods Used to Conduct Financial Transactions

Latinos have historically been more prone to using cash to conduct financial transactions but have slowly gravitated to online or mobile methods.

- From 2015 to 2017, Latinos using electronic payment methods to pay their bills slightly increased, while the use of cash, check, or money orders to pay bills has remained nearly the same.
- Electronic payments from bank accounts remained the most prominent form of bill payment for Latinos at 57.2%, followed closely by the use of debit cards by 53.6% of Latinos.
- Personal checks remained the third most prevalent method of bill payments for 44.6% of Latinos—a 2% increase since 2015.
- Latino households were more likely to rely on cash, non-bank money orders, and prepaid cards than their White counterparts. For example, in 2017, 60% of Latino households used only bank methods to pay bills, compared to 85.1% of White households.

As Latinos' use of direct deposit has increased, the rate of Latino households receiving income via checks and cash has remained the same.

- Direct deposit was by far the most prevalent method for receiving income for Latinos. Growing from 64.1% of Latino households in 2015 to 73.8% in 2017.
- In 2017, roughly a third of Latinos (34%) received income as a check or money order—the same since 2015. Similarly, Latino households receiving income in cash hovered around 14% from 2015 to 2017.
- Latinos remain more likely to use non-bank check cashers to receive income. Specifically, in 2017, 4.1% of Latinos used a check casher to receive income compared to 1.1% of White households.

Latinos' use of transaction AFS has steadily declined since 2011—but remains prominent compared to White households.

- In 2017, 32.4% of Latino households used transaction AFS in the previous 12 months—a 7.1% decrease since 2011. Yet, the rate of Latino households using transaction AFS remains more than double that of White households (12%).

Access to Credit

Accessing mainstream credit continues to be a challenge for Latinos.

- In 2017, only slightly over two-out-of-three (68.8%) Latinos used mainstream credit in the past 12 months, compared to almost seven-out-of-eight (85.7%) Whites.
- Latinos at all income levels used mainstream credit at lower levels than Whites.

Latinos' use of credit AFS remains well above their White counterparts.

- In 2017, 8.2% of Latinos used an AFS provider for credit in the previous 12 months, compared to 5.6% of Whites.
- The use of credit AFS reflects the difference in ability to access mainstream credit between Latinos and Whites. Nearly one-out-of-three (31.5%) Latinos had no mainstream credit in 2017 compared to just one-in-seven (14.4%) Whites.

Latinos also have an unmet demand for mainstream personal lines of credit.

- In 2017, 3.1% of Latinos were denied a credit card, personal loan, or line of credit from a bank in the past 12 months—compared to 2.4% of Whites.
- Denial rates have adversely impacted the willingness of Latinos to seek a line of credit from a mainstream bank. For example, 7% of Latinos did not apply for a line of credit from a mainstream bank in the previous 12 months due to fear of denial, compared to 4.5% of Whites.

Conclusion

Access to financial services is a critical stepping-stone to financial security and asset-building for Latino families. Securing an affordable bank account with a financial institution and avoiding AFS would reduce transaction costs and safeguard savings for Latino households. The data shows that despite progress, much work remains to fully analyze this data to understand the nuances of the financial lives and needs of Latinos and ensure that those needs are met.

Increased Latino financial inclusion will require a matched effort from both the private and public sectors. Financial institutions must develop interventions that are culturally and linguistically appropriate and address both the supply and demand challenges of banking services, such as increased access to small-dollar credit. Policymakers must consider increased consumer protections for Latino families given the expansion of mobile and online banking services. This coordinated effort is essential to the financial security of Latinos and their ongoing contributions to the nation's financial system.

Endnote

1 "Financial Exclusion: Why It Is More Expensive to Be Poor." Penn Wharton Public Policy Initiative. Accessed December 13, 2018. https://publicpolicy.wharton.upenn.edu/live/news/1895-financial-exclusion-why-it-is-more-expensive-to-be.

2 "What Are the Costs and Fees for a Payday Loan?" Consumer Financial Protection Bureau. Accessed December 13, 2018. https://www.consumerfinance.gov/ask-cfpb/what-are-the-costs-and-fees-for-a-payday-loan-en-1589/.

3 U.S. Census Bureau. "Quick Facts." (Washington, DC: US Census Bureau). https://www.census.gov/quickfacts/fact/table/US/RHI725217.

Congresswoman Joyce Beatty (OH-03)
Questions for the Record
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
Committee on Financial Services
February 26, 2019 at 10:00am – Rayburn 2128

Questions for Panel #1

1. **The Consumer Financial Protection Bureau issued a report in late 2014 entitled, "Consumer Credit Reports: A Study of Medical and Non-Medical Collections." In that report, the Consumer Bureau surveyed 5 million consumers and found that over 50% of credit reports that had collections on them were related to medical collections, however, they were for relatively low amounts. The median amount owed for medical collections was $207 and 75% of all medical collections were under $490.**

   On September 15, 2017, your three companies made the decision to establish a 180-day waiting period before positing a medical collection on a consumer credit report—actions which should be applauded. Why was that decision made?

This decision was made as part of the National Consumer Assistance Plan (NCAP) launched by Equifax, Experian and TransUnion in March 2015 to enhance the three companies' ability to make credit reports more accurate and make it easier for consumers to correct any errors on their reports. NCAP was created after cooperative discussions and an agreement with New York Attorney General Eric Schneiderman and a group of other State Attorneys General.

The company NerdWallet compiled data from all Medicare Compliance Reviews of U.S. hospitals conducted by the Office of the Inspector General in 2013 and found that almost 50% of the Medicare medical claims contain medical billing errors, which resulted in overpayment of 26.4%. While other advocates put the error rate closer to 75 or 80%. With a system of error rates for medical debt so high and the total amounts in dollars so low, is it beneficial to the system of credit to have medical debt reported at all? If so how?

NCAP established the 180-waiting period before medical debts will be reported to allow for additional time for insurance payments to be applied to these debts.

Regarding accuracy and the benefits to the system of credit to have medical debt, under the Fair Credit Reporting Act (FCRA), consumer reporting agencies and data furnishers must meet stringent requirements around accuracy, fairness and privacy of information. We are required to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual to whom a report relates. If a consumer disputes the accuracy of any information in his or her file, we are required to conduct a reasonable reinvestigation.

Inherent in the financial ecosystem is a shared interest of credit bureaus, lenders, consumers and data furnishers in maintaining accuracy of credit data. Above all, it recognizes the importance of comprehensive information on a credit file – including both positive and negative data — to all

Congresswoman Joyce Beatty (OH-03)
Questions for the Record
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
Committee on Financial Services
February 26, 2019 at 10:00am – Rayburn 2128

parties. Without comprehensive information that clearly depicts both good credit behavior and instances where debt obligations have not been fulfilled, all borrowers are rendered essentially the same — forcing lenders to raise interest rates.

Consumers trust and expect that their credit reports contain the most accurate and complete data possible, and lenders rely on that information to help millions of consumers obtain the right loans at the right time.

2. **In 2012, the Federal Trade Commission reported to Congress the results of a study of credit report accuracy. These results showed that 26% of survey participants were able to identify at least one potentially material error on at least one of their credit reports from your companies. Additionally, between November 2016 to October 2018, the Consumer Financial Protection Bureau received 213,000 credit reporting complaints to its public consumer complaint database, which several of my colleagues on the other side of the aisle have voted to shield from the public and make private. The number of complaints was the most by any consumer product or service during that time period. Your three companies handle credit reports for more than one hundred million Americans.**

   Do you conduct internal assessments for accuracy of the credit reports in your databases? If so, what are your internal accuracy rates?

As stated above, inherent in the financial ecosystem is a shared interest of credit bureaus, lenders, consumers and data furnishers in maintaining accuracy of credit data. We are required to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual to whom a report relates. If a consumer disputes the accuracy of any information in his or her file, we are required to conduct a reasonable reinvestigation.

The system in place holds credit reporting agencies accountable for promptly investigating any disputes or inaccuracies and also expects that lenders provide credit reporting agencies with complete and accurate information.

Equifax is significantly investing in the consumer experience, including ways to help consumers process and manage disputes on their credit reports, including sending proactive alerts to consumers on the progress of their disputes. This new service will help give consumers transparency and peace of mind that their disputes are being handled promptly and with urgency.

While we are dependent on the accuracy of the data reported to us by furnishers, any error on a consumer's credit report is one error too many. Therefore, we continuously endeavor to eliminate errors.

Congresswoman Joyce Beatty (OH-03)
Questions for the Record
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
Committee on Financial Services
February 26, 2019 at 10:00am – Rayburn 2128

3. **The last two Congresses I introduced the Free Credit Score Act, which would ensure the three nationwide credit reporting companies include a credit score with the free annual credit report. There is a similar provision included in Chairwoman Waters' discussion draft bill entitled, Comprehensive Consumer Credit Reporting Act.**

   Do you support this provision and my standalone bill? Why or why not?

Consumers should have access to the tools they need to make informed credit decisions. That includes easy access to their credit reports and the ability to lock or freeze their credit as needed. It is also important for consumers to understand how lenders evaluate them as the consumers consider a commitment to take out a mortgage to buy their first home, finance higher education, or purchase a new car. Equifax agrees that a credit score is valuable and should be accessible to all consumers. Today, consumers have multiple channels in the marketplace through which to gain access to their credit scores.

At this time, we do not believe Congress should pass a bill to require CRAs to provide proprietary solutions to consumers for free. We are continually evaluating ways in which to provide value and transparency to consumers.

Questions for the Record
Rep. Stephen F. Lynch
Hearing: February 26, 2019 – Credit Bureaus

To all Panel I testifiers:

- What role are your companies playing in credit applications to fintech firms? Are you building or providing specific products for fintech companies? What areas of concern or interest are there for your companies in this field?

  A: Equifax provides FCRA and GLBA compliant data to help fintech firms throughout the lifecycle of an account, including for marketing, fraud detection and underwriting purposes. As with other clients, we provide solutions to support the needs of fintech firms, and where necessary, we customize these solutions. Equifax provides services to all of our customers, including fintech firms, in a secure, frictionless, and timely environment.

- Do you support a federal data security standard and breach notification law? What hurdles would your companies face in implementing the European Union's approach to breach notification under the General Data Protection Regulation?

  A: Equifax supports a federal breach notification and data security law to support uniformity and consistency for consumers and businesses across the nation. In contemplating a new data breach notification standard, it is important to take into consideration the time needed to both identify the impacted consumer population and close any vulnerability created by the breach. Equifax will work with Congress as it considers any new federal breach notification or data security laws.

Hearing: February 26, 2019, "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System." Requesting Members: Congresswoman Joyce Beatty (OH-03) and Bill Foster (IL-11)

By Edmund Mierzwinski, U.S. PIRG, Submitted 29 March 2019

Replying To Congresswoman Joyce Beatty:

QFR1: *The last two Congresses I introduced the Free Credit Score Act, which would ensure the three nationwide credit reporting companies include a credit score with the free annual credit report. There is a similar provision included in Chairwoman Waters' discussion draft bill entitled, Comprehensive Consumer Credit Reporting Act. Do you support this provision and my standalone bill? Why or why not?*

U.S. PIRG strongly supports legislation, including your previous bills and the discussion draft of the Consumer Credit Reform Reporting Act, requiring that credit scores be provided to consumers as part of all consumer credit report disclosures. We would go further and urge that consumers have the right to a free score in any credit report disclosure and of similar risk scores used for any decision. Further, any credit score disclosed should be one commonly used by creditors to make decisions, not a so-called educational score. Consumers are not customers of credit bureaus; we are products and should have the right to audit our credit scores and credit reports for free.

In our group response to a recent Request for Information[1] to the Senate Banking Committee, consumer groups said:

> **"There should be a free right to a credit score and required disclosure of any other risk scores.** Another improvement to disclosures that is long overdue would be the right to a free credit score under the FCRA. While there have been many voluntary improvements for access to free credit scores, such as FICO's Open Access Initiative, consumers should have a legal right to a free credit score. Furthermore, this required disclosure should be for a credit score that is widely used by lenders, and not the "educational" scores offered by the nationwide CRAs that no lenders actually use.
>
> In additional, consumers should have the right to access any other "risk score" based on a consumer report, such as scores issued by tenant screening CRAs, background check CRAs, and CRAs focused on healthcare payment information (e.g. PARO scores). A fundamental principle for data privacy and protection is that if a company holds and sells or shares information about consumers, we should be entitled to access that information."

In my testimony to the committee on 26 February 2019, I explained the long fight for transparency of credit scores:

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[1] "Feedback On Data Privacy, Protection and Collection," 15 March 2019, https://www.nclc.org/images/Response-to-CrapoBrown-Request-for-Feedback_and_Public_Privacy_Principles.pdf

Answers to Questions for the Record,
Hearing on "Who's Keeping Score," 26 February 2019
By Edmund Mierzwinski, U.S. PIRG, Submitted 26 March 2019

Replying To Congresswoman Joyce Beatty (Continued):

> "In the early 1990s the FTC proposed an interpretation that credit scores were, by definition, part of consumer credit reports that should be included in credit report disclosures[2] to consumers. Under an industry full-court press, it immediately reneged on this consumer-backed idea.
>
> In 2000, following a joint campaign by realtors and consumer groups, California prohibited clauses in CRA contracts with users such as real estate agents that prevented them from showing credit scores to consumers. Since then, the veil over credit scores has gradually lifted. The CRAs have long-sought to monetize their disclosure, unfortunately also through deceptive marketing of "educational" scores, not the scores actually used by creditors.[3] It is past time to provide scores for free as part of the annual free report disclosure first required nationwide by the 2003 FACT Act. Section 604 of the CCRRA provides free credit scores in this and other circumstances."

Providing credit scores for free will also help expose how the consumer credit reporting and scoring systems have helped perpetuate the racial wealth and income gaps. I would refer you to the testimony of my consumer and civil rights colleagues at the "Who's Keeping Score" hearing for more details.[4]

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[2] The FTC did not have any rulemaking authority under the FCRA until limited authorities were granted in the 2003 FACT Act. In previous years, its views were described in often-amended "FCRA Interpretations" and through staff opinion letters.

[3] The CFPB used director Richard Cordray's bully pulpit very effectively to nudge more banks and credit unions to greatly expand the availability of free credit scores. Its most recent list is available: Skyricki, Irene, "A new list identifies more ways to access credit scores—for free," CFPB, 16 May 2018, at https://www.consumerfinance.gov/about-us/blog/new-list-identifies-more-ways-access-credit-scores-free/

[4] For example, see esp. pages 6-7 of the "Who's Keeping Score" testimony of Chi Chi Wu, National Consumer Law Center, at https://financialservices.house.gov/uploadedfiles/hhrg-116-ba00-wstate-wuc-20190226.pdf

Answers to Questions for the Record,
Hearing on "Who's Keeping Score," 26 February 2019
By Edmund Mierzwinski, U.S. PIRG, Submitted 26 March 2019

Replying To Congresswoman Joyce Beatty (Continued):

QFR2: The Consumer Financial Protection Bureau issued a report in late 2014 entitled, "Consumer Credit Reports: A Study of Medical and Non-Medical Collections." In that report, the Consumer Bureau surveyed 5 million consumers and found that over 50% of credit reports that had collections on them were related to medical collections, however, they were for relatively low amounts. The median amount owed for medical collections was $207 and 75% of all medical collections were under $490.

On September 15, 2017, the three credit reporting companies made the decision to establish a 180-day waiting period before positing a medical collection on a consumer credit report—actions which should be applauded.

The company NerdWallet compiled data from all Medicare Compliance Reviews of U.S. hospitals conducted by the Office of the Inspector General in 2013 and found that almost 50% of the Medicare medical claims contain medical billing errors, which resulted in overpayment of 26.4%. While other advocates put the error rate closer to 75 or 80%. ***With a system of error rates for medical debt so high and the total amounts in dollars so low, is it beneficial to the system of credit to have medical debt reported at all? If so how?***

Medical debt is an indicator that someone got sick, or that someone -- including a spouse or partner -- got laid off or could no longer work and thus lost health insurance, or a family suffered some other dislocation, such as divorce or separation. Presence of medical debt is not in any way associated with characteristics of a person who does not intend to pay their debts. That is why both the FICO and Vantage Score (a joint venture of the Big 3 credit bureaus) credit scoring models have reduced or eliminated the impact of medical debt. Yet, the bureaus have refused to stop collecting and reporting medical debt, which may also be due to medical billing errors including those caused by slow-pay insurance companies frustrating doctors or hospitals into sending the consumer to collection for a debt she expects the insurer to pay.

I would disagree that any actions by the Big 3 credit bureaus should be applauded. Their decision to institute a 180-day waiting period was only made following CFPB supervisory actions and a bi-partisan attorneys general enforcement action by over 30 states, including Ohio.[5]

The current draft of the Consumer Credit Reporting Relief Act provides for a longer, one year waiting period, which we support. Ideally, we know of no reason it should be reported at all.

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[5] Medical debt reporting rules changed on 15 Sept 2017 following a 2015 settlement order with the state attorneys general. See news release, "Tens of Millions of Consumers Will Benefit from New Rules for Medical Debt on Credit Reports," National Consumer Law Center, 7 Sept 2017, http://www.nclc.org/media-center/tens-of-millions-consumers-benefit-from-new-rules

Answers to Questions for the Record, Hearing on
"Who's Keeping Score," 26 February 2019
By Edmund Mierzwinski, U.S. PIRG, Submitted 26 March 2019

Responding to Congressman Bill Foster (IL-11):

QFR1: The Better Identity Coalition, an organization focused on developing and advancing consensus-driven, cross-sector policy solutions that promote the development and adoption of better solutions for identity verification and authentication, released a report in July 2018 called "Better Identity in America: A Blueprint for Policymakers". This report outlines a comprehensive policy agenda for improving the privacy and security of digital identity solutions. In your opinion, if the policy solutions discussed in this report were to be implemented, would this be a positive development for consumers? Would it have the potential to improve consumer financial access to credit? Are there concerns from your perspective on whether the policy solutions discussed in the report might lead to discrimination against protected classes under, for example, the Equal Credit Opportunity Act? Or lead to discrimination against racial minorities or low- or moderate-income consumers more generally?

I am familiar with the Better Identity Coalition and, in fact, testified along with its principal, Jeremy Grant, at an Energy and Commerce hearing on authentication issues.[6]

I concur with my fellow consumer and civil rights witnesses that there are concerns, however, with their approach.

We agree with the analysis of the Better Identity Coalition report to the extent that it recommends that the U.S. retains the use of the Social Security number (SSN) as an identifier, but to move away from it, while ceasing the use of the SSN as an authenticator. However, the solutions proposed by the Better Identity Coalition need refinement.

The Better Identity Coalition report recommends that online identities be validated with both the Social Security Administration (SSA) and state Department of Motor Vehicles. There are pitfalls to this approach for certain populations, including potential disparate impacts for protected groups.

With respect to validating identities with the SSA, it is important to remember that not all consumers in the US will have SSNs. Some consumers will have Individual Taxpayer Identification Numbers (ITINs), others will not have any identification numbers. There needs to be alternate ways to verify the identities of these persons. For ITINs, any certification would need to be with IRS; however, that raises privacy issues that will need to be addressed. Also, if ITINs are going to be relied upon for identity verification, we recommend Congress repeal the PATH Act provision that makes ITINs expire after 3 years. Protecting Americans from Tax Hikes (PATH) Act, Pub. L. No. 114-113, Division Q, § 203 (2015).

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[6] Hearing On "Identity Verification In A Post-Breach World," Energy and Commerce Committee Subcommittee On Oversight And Investigations (November 30, 2017), see https://energycommerce.house.gov/committee-activity/hearings/hearing-on-identity-verification-in-a-post-breach-world-subcommittee-on

As for checking with state DMVs, the problem is that consumers without driver's licenses or state issued identification would not be able to establish their identity online. Data from the voting rights groups indicates that requiring a driver's license or state-issued ID will have a disparate impact on African Americans and Latinos. *See, e.g.*, Phoebe Henninger, et al., Who Votes Without Identification? Using Affidavits from Michigan to Learn About the Potential Impact of Strict Photo Voter Identification Laws, 13 July 2018, https://esra.wisc.edu/papers/HMM.pdf (nonwhite voters were between 2.5 and 6 times as likely as white voters to lack voter ID). Thus, alternatives must be provided to prevent protected groups from being shut out of online identity verification.

TransUnion Responses to
Questions for the Record
Hearing: February 26, 2019 – Credit Bureaus

<u>Questions from Congressman Stephen F. Lynch (MA-08)</u>

1. **What role are your companies playing in credit applications to fintech firms? Are you building or providing specific products for fintech companies? What areas of concern or interest are there for your companies in this field?**

   TransUnion provides solutions and products to fintech companies with deeper insights, greater certainty, and the tools to make smarter decisions, ultimately enabling them to serve more consumers. Specifically, we offer fintech companies products and services such as fraud detection and prevention tools, analytics and consulting, consumer credit reporting, trended and alternative data solutions, and identity verification services. Traditional financial institutions are now adopting recent innovations we introduced for fintechs including consumer-initiated pre-qualifications for credit. This enables consumers to shop around for the best product/price fit without impacting their credit score. Another innovation is a consumer credit score presentment/simulation, which provides consumers with greater insight into their credit file and how their credit decisions affect their score.

2. **Do you support a federal data security standard and breach notification law? What hurdles would your companies face in implementing the European Union's approach to breach notification under the General Data Protection Regulation?**

   TransUnion supports enactment of a federal breach notification law. An effective breach notification framework should include, at a minimum, the following provisions/elements:

   - Preempt the current patchwork of state breach notification standards
   - In order to avoid undue alarm to consumers, notification to consumers should be required only in situations where a breach would likely result in significant harm to such consumers
   - Allow for coordination with law enforcement and federal agencies
   - Reasonable timing requirement to notify impacted individuals after coordination with law enforcement and federal agencies
   - Administrative enforcement only

   TransUnion would urge Congress to exercise caution before adopting a breach notification standard similar to the one in the General Data Protection Regulation ("GDPR"), which sets an extremely low threshold and short timeline for notice to regulators. In the first year after the GDPR standard became effective, a number of EU regulators reported receiving an unmanageably high volume of breach notifications. A standard that establishes a low threshold for breach reporting, without consideration of actual consumer risk, will only increase the compliance burden on companies and the oversight burden of regulators, without meaningfully enhancing consumer benefits.

TransUnion currently adheres to the Federal Trade Commission's Safeguards Rule for data security. Our information security program incorporates continuous improvement methodology and evaluates threats, industry events and asset values to help us appropriately adjust security controls. If a federal data security standards law allowed for continued flexibility and innovation in meeting any new and emerging cyber threats, TransUnion could support such a law.

TransUnion Responses to Questions for the Record Hearing: February 26, 2019 – Credit Bureaus

Questions from Congresswoman Joyce Beatty (OH-03)

1. **The Consumer Financial Protection Bureau issued a report in late 2014 entitled, "Consumer Credit Reports: A Study of Medical and Non-Medical Collections." In that report, the Consumer Bureau surveyed 5 million consumers and found that over 50% of credit reports that had collections on them were related to medical collections, however, they were for relatively low amounts. The median amount owed for medical collections was $207 and 75% of all medical collections were under $490.**

   On September 15, 2017, your three companies made the decision to establish a 180-day waiting period before positing a medical collection on a consumer credit report—actions which should be applauded. Why was that decision made?

   The company NerdWallet compiled data from all Medicare Compliance Reviews of U.S. hospitals conducted by the Office of the Inspector General in 2013 and found that almost 50% of the Medicare medical claims contain medical billing errors, which resulted in overpayment of 26.4%. While other advocates put the error rate closer to 75 or 80%. With a system of error rates for medical debt so high and the total amounts in dollars so low, is it beneficial to the system of credit to have medical debt reported at all? If so how?

   TransUnion worked with the industry to establish policies ensuring consumers are not unfairly penalized for medical debts that should be covered by their insurance. Industry implemented a standard that requires a 180-day waiting period before medical debt can be reported, to allow the debt to work through the insurance process. Industry also established a standard that medical debt that has been paid by insurance should be deleted from the consumer's file.

   TransUnion also believes prospective lenders possess data necessary to adequately assess a consumer's ability to pay future obligations. In instances when a consumer chooses to finance an elective treatment, such as LASIK surgery, or orthodontia, that type of potential medical debt should be viewed like any other loan obligation.

   Lastly, TransUnion encourages regulators and creditors to continuously evaluate questions regarding the type of data that should be included in credit reports to ensure that creditors have access to the data they need to make good underwriting decisions.

2. **In 2012, the Federal Trade Commission reported to Congress the results of a study of credit report accuracy. These results showed that 26% of survey participants were able to identify at least one potentially material error on at least one of their credit reports from your companies. Additionally, between November 2016 to October 2018, the Consumer Financial Protection Bureau received 213,000 credit reporting complaints to**

its public consumer complaint database, which several of my colleagues on the other side of the aisle have voted to shield from the public and make private. The number of complaints was the most by any consumer product or service during that time period. Your three companies handle credit reports for more than one hundred million Americans.

Do you conduct internal assessments for accuracy of the credit reports in your databases? If so, what are your internal accuracy rates?

Data accuracy is the fundamental underpinning for the entire credit reporting system. While we have powerful statistics on the accuracy of our files and processes, we know how distressing any mistake can be for a consumer. TransUnion endeavors each day to prevent errors and address them quickly and efficiently when they occur. It is our shared interest to make the data as accurate as possible.

All stakeholders in the U.S. credit market play an active role in establishing and maintaining accuracy. The system depends, in part, on TransUnion receiving accurate, complete, and timely information from lenders and other data sources who provide data to us on a voluntary basis. Each data furnisher is thoroughly vetted before being accepted and repeatedly throughout their lifespan with TransUnion. We use a combination of technology, people, and processes is used to validate information and review anything flagged as anomalous.

TransUnion processes more than 2 billion credit updates monthly. We match these to more than 230 million active credit consumer profiles in the U.S. This enormous transaction volume requires us to get it right, and we believe we have the most accurate matching algorithms in the industry. We constantly assess – and seek to improve – the accuracy of our matching algorithms to maximize our ability to match the right information to the right consumer. We frequently look for ways to get the balance right: tight enough to yield a correct match, but loose enough to not exclude appropriate information.

Matching errors sometimes occur due to manual errors furnished to TransUnion. We employ a range of capabilities that automatically identify and correct issues such as transposed digits in Social Security Numbers (SSNs), name misspellings and near-miss addresses. These processes are designed to produce the most accurate matching results possible. In 2018, less than a half percent of one percent of those who filed a dispute with TransUnion were associated with incorrectly combining credit files. Instead, the nature of many disputes about a discrepancy between information contributed to a credit file and what the consumer believes to be correct.

Despite tremendous effort by both TransUnion and our furnishers to match with the highest degree of accuracy possible, no process or person is perfect. Mistakes do occur. When they are identified, steps are taken to correct them as quickly as possible. Most disputes result from a discrepancy between furnished information and what the consumer believes to be correct.

TransUnion has invested heavily in building systems to assist consumers in quickly addressing any errors in their credit reports and to work with the furnishers to quickly resolve any inaccurately reported items. Over 25 percent of disputes are resolved within one week. If we cannot resolve the issue, we work the provider of the disputed information, concluding most investigations within 30 days as required by the Fair Credit Report Act (FCRA).

3. **The last two Congresses I introduced the Free Credit Score Act, which would ensure the three nationwide credit reporting companies include a credit score with the free annual credit report. There is a similar provision included in Chairwoman Waters' discussion draft bill entitled, Comprehensive Consumer Credit Reporting Act.**

   Do you support this provision and my standalone bill? Why or why not?

   Consumers have three credit reports – one from each of the three nationwide consumer reporting agencies (TransUnion, Experian and Equifax). However, hundreds of credit score models are used to assess a consumer's creditworthiness, most of which do not belong to the three nationwide CRAs, and there is no one definitive credit score. TransUnion believes that consumers are best served by being provided with their complete credit data as currently provided when they access AnnualCreditReport.com.

   Credit scores are already widely available for free in the market today. TransUnion is proud that each year, more than 166 million Americans have taken advantage – either directly or through our partners – of free access to their TransUnion credit information and credit scores. In addition, distributors of credit scores compete with one another to display various scores to consumers in a manner that is most useful to them. Since innovation is vibrant among these competitors, a government mandated score distribution may not be of great benefit to consumers. If a credit score is deemed to be required, TransUnion would prefer for each of the three CRAs to provide their credit score on the website.

Hearing: February 26, 2019, "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System."

Requesting Member: Congressman Bill Foster (IL-11)

Witnesses: Lisa Rice, Chi Chi Wu, Jennifer Brown, Edmund Mierzwinski, Thomas P. Brown

Question for the Record: The Better Identity Coalition, an organization focused on developing and advancing consensus-driven, cross-sector policy solutions that promote the development and adoption of better solutions for identity verification and authentication, released a report in July 2018 called "Better Identity in America: A Blueprint for Policymakers". This report outlines a comprehensive policy agenda for improving the privacy and security of digital identity solutions. In your opinion, if the policy solutions discussed in this report were to be implemented, would this be a positive development for consumers? Would it have the potential to improve consumer financial access to credit? Are there concerns from your perspective on whether the policy solutions discussed in the report might lead to discrimination against protected classes under, for example, the Equal Credit Opportunity Act? Or lead to discrimination against racial minorities or low- or moderate-income consumers more generally?

We generally agree with the Better Identity Coalition report's recommendations that the U.S. retain the use of the Social Security Number (SSN) as an identifier, but to move away from it while ceasing the use of the SSN as an authenticator. However, the solutions proposed by the Better Identity Coalition need more thought as they may have a discriminatory effect on protected classes under the Fair Housing Act and Equal Credit Opportunity.

The Better Identity Coalition report recommends that online identities be validated with both the Social Security Administration (SSA) and state Department of Motor Vehicles. This approach could have a disparate impact on people of color. Validating identities with the SSA does not consider that not all consumers in the US will have SSNs. Some consumers will have Individual Taxpayer Identification Numbers (ITINs), and others will not have any identification numbers. An alternate way to verify the identities of these persons must be created. To use ITINs, certification would need to be conducted with the IRS; however, that raises privacy issues that will need to be addressed. Additionally, if ITINs are going to be used for identity verification, we recommend Congress repeal the PATH Act provision that makes ITINs expire after 3 years. Protecting Americans from Tax Hikes (PATH) Act, Pub. L. No. 114-113, Division Q, § 203 (2015).

Checking with state DMVs will pose similar challenges. Consumers without driver's licenses or state issued identification would not be able to establish their identity online. We have seen that in the context of voting rights that requiring a driver's license or state-issued ID has a disparate impact on African Americans and Latinos. *See, e.g.*, Phoebe Henninger, et al., *Who Votes Without Identification? Using Affidavits from Michigan to Learn About the Potential Impact of Strict Photo Voter Identification Laws*, July 13, 2018, https://esra.wisc.edu/papers/HMM.pdf. To avoid the same disparate impact, alternatives must be provided to prevent protected groups from being shut out of online identity verification.

Congresswoman Joyce Beatty (OH-03)
Questions for the Record
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
Committee on Financial Services
February 26, 2019 at 10:00am – Rayburn 2128

Questions for Panel #2

1. The last two Congresses I introduced the Free Credit Score Act, which would ensure the three nationwide credit reporting companies include a credit score with the free annual credit report. There is a similar provision included in Chairwoman Waters' discussion draft bill entitled, Comprehensive Consumer Credit Reporting Act.

   Do you support this provision and my standalone bill? Why or why not?

   The National Fair Housing Alliance endorses the Comprehensive Consumer Credit Reporting Act. The specific provision the Congresswoman asks about is especially important to ensure that every American has access to this vita piece of information so that they can be well-informed about their qualifications and seek the appropriate financial products and services for which they qualify. This is especially important for protected classes under the Fair Housing Act and Equal Credit Opportunity Act, whom have been historically locked out of quality and affordable mainstream credit, to be empowered to the greatest extent possible to shop for and demand appropriately priced financial products, free of discrimination.

   In addition to the free credit score provision, the legislation does a tremendous service to victims of predatory discriminatory loans. The bill's provision that protects the credit standing of people who have experienced foreclosure due to discriminatory terms, conditions, pricing, or other features in a mortgage product is especially important in light of the devastating impact that discriminatory mortgage products had in communities of color before, during, and after the most recent foreclosure crisis.

   The Congresswoman may also want to consider requiring the bureaus to provide straightforward and accessible explanations to the public about how their credit score is calculated.

2. The Consumer Financial Protection Bureau issued a report in late 2014 entitled, "Consumer Credit Reports: A Study of Medical and Non-Medical Collections." In that report, the Consumer Bureau surveyed 5 million consumers and found that over 50% of credit reports that had collections on them were related to medical collections, however, they were for relatively low amounts. The median amount owed for medical collections was $207 and 75% of all medical collections were under $490.

Congresswoman Joyce Beatty (OH-03)
Questions for the Record
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
Committee on Financial Services
February 26, 2019 at 10:00am – Rayburn 2128

On September 15, 2017, the three credit reporting companies made the decision to establish a 180-day waiting period before positing a medical collection on a consumer credit report--actions which should be applauded.

The company NerdWallet compiled data from all Medicare Compliance Reviews of U.S. hospitals conducted by the Office of the Inspector General in 2013 and found that almost 50% of the Medicare medical claims contain medical billing errors, which resulted in overpayment of 26.4%. While other advocates put the error rate closer to 75 or 80%. With a system of error rates for medical debt so high and the total amounts in dollars so low, is it beneficial to the system of credit to have medical debt reported at all? If so how?

The National Fair Housing Alliance does not believe medical debt should be reported to the credit bureaus for several reasons. The legacy of government-sponsored residential segregation continues to determine key public health disparities that affect people in communities of color. The historic disinvestment in communities of color has stripped them of opportunities to have public spaces for children to play and exercise safely, grocery stores with nutritious offerings, and access to basic healthcare services. People living in neighborhoods predominantly of color are also more likely to be exposed to gun and other violence, resulting in a greater need for expensive emergency trauma care. For a more detailed discussion on how where one lives matters in terms of health outcomes, please see the National Fair Housing Alliance's 2017 Fair Housing Trends Report at https://nationalfairhousing.org/reports-research/.

At a more global level, the cost of healthcare in the United States is the highest of any industrialized nation in the world and people of color are least likely to have health insurance or accumulated family wealth to cover the costs of emergency medical care. Considering the aforementioned public health and wealth disparities affecting people of color, the inclusion of medical debt in credit reports and scores has a disparate impact on people of color. For more information on the interplay between the public health and wealth disparities that affect African Americans, for example, please visit the Urban Institutes on the subjects at https://www.urban.org/urban-wire/past-due-medical-debt-problem-especially-black-americans.

Answers from Chi Chi Wu to Written Questions for the Record from Congressman Bill Foster
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
Hearing before the Committee on Financial Services
February 26, 2019

The Better Identity Coalition, an organization focused on developing and advancing consensus-driven, cross-sector policy solutions that promote the development and adoption of better solutions for identity verification and authentication, released a report in July 2018 called "Better Identity in America: A Blueprint for Policymakers". This report outlines a comprehensive policy agenda for improving the privacy and security of digital identity solutions. In your opinion, if the policy solutions discussed in this report were to be implemented, would this be a positive development for consumers? Would it have the potential to improve consumer financial access to credit? Are there concerns from your perspective on whether the policy solutions discussed in the report might lead to discrimination against protected classes under, for example, the Equal Credit Opportunity Act? Or lead to discrimination against racial minorities or low- or moderate-income consumers more generally?

We agree with the analysis of the Better Identity Coalition report to the extent that it recommends that the U.S. retains the use of the Social Security number (SSN) as an identifier (while moving away from it), but stops the use of the SSN as an authenticator. However, the solutions proposed by the Better Identity Coalition need refinement.

The Better Identity Coalition report recommends that online identities be validated with both the Social Security Administration (SSA) and state Departments of Motor Vehicles. There are pitfalls to this approach for certain populations, including potential disparate impacts for protected groups.

With respect to validating identities with the SSA, it is important to remember that not all consumers in the United States will have SSNs. Some consumers will have Individual Taxpayer Identification Numbers (ITINs), others will not have any identification numbers. There needs to be alternate ways to verify the identities of these persons. For ITINs, any certification would need to be with IRS; however, that raises privacy issues that will need to be addressed. Also, if ITINs are going to be relied upon for identity verification, we recommend Congress repeal the PATH Act provision that makes ITINs expire after 3 years. Protecting Americans from Tax Hikes (PATH) Act, Pub. L. No. 114-113, Division Q, § 203 (2015).

As for checking with state DMVs, the problem is that consumers without driver's licenses or state issued identification would not be able to establish their identity online. Data from the voting rights groups indicates that requiring a driver's license or state-issued ID will have a disparate impact on African Americans and Latinos. *See, e.g.*, Phoebe Henninger, et al., Who Votes Without Identification? Using Affidavits from Michigan to Learn About the Potential Impact of Strict Photo Voter Identification Laws, July 13, 2018,

https://esra.wisc.edu/papers/HMM.pdf
(nonwhite voters were between 2.5 and 6 times as likely as white voters to lack voter ID). Thus, alternatives methods must be provided to prevent protected groups from being shut out of online identity verification.

Answers from Chi Chi Wu to Written Questions for the Record from Congresswoman Joyce Beatty "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System" Hearing before the Committee on Financial Services February 26, 2019

1. *The last two Congresses I introduced the Free Credit Score Act, which would ensure the three nationwide credit reporting companies include a credit score with the free annual credit report. There is a similar provision included in Chairwoman Waters' discussion draft bill entitled, Comprehensive Consumer Credit Reporting Act.*

   Do you support this provision and my standalone bill? Why or why not?

   The National Consumer Law Center (on behalf of its low-income clients) has long supported Chairwoman Waters's Comprehensive Consumer Credit Reporting Reform Act, including the provision requiring free annual credit scores. We would also support a standalone bill to require the credit reporting agencies (CRAs) to provide free annual credit scores. Free annual credit scores would help consumers better understand their creditworthiness, which is especially helpful when a consumer is shopping for credit. And credit scores are based on *our* information that the CRAs are making money from - we should be entitled to free access to these scores.

   One recommendation for any standalone bill is that it should require the CRAs to provide a widely used credit score, so that the consumer receives a credit score that is actually used by lenders.

2. *The Consumer Financial Protection Bureau issued a report in late 2014 entitled, "Consumer Credit Reports: A Study of Medical and Non-Medical Collections." In that report, the Consumer Bureau surveyed 5 million consumers and found that over 50% of credit reports that had collections on them were related to medical collections, however, they were for relatively low amounts. The median amount owed for medical collections was $207 and 75% of all medical collections were under $490.*

   On September 15, 2017, the three credit reporting companies made the decision to establish a 180-day waiting period before positing a medical collection on a consumer credit report—actions which should be applauded.

   The company NerdWallet compiled data from all Medicare Compliance Reviews of U.S. hospitals conducted by the Office of the Inspector General in 2013 and found that almost 50% of the Medicare medical claims contain medical billing errors, which resulted in overpayment of 26.4%. While other advocates put the error rate closer to 75 or 80%. With a system of error rates for medical debt so high and the total amounts in dollars so low, is it beneficial to the system of credit to have medical debt reported at all? If so how?

We believe that the reporting of medical debt on consumer credit reports is often unfair and counterproductive. Medical bills result from services that are frequently involuntary, unplanned, and unpredictable, and for which prices quotes are rarely provided. Moreover, there is strong evidence that medical debt items are not an accurate reflection of the creditworthiness of the consumer. The CFPB found that medical debt unfairly penalizes a consumer's credit score by 10 points, and for a medical debt collection item that is subsequently paid, by up to 22 points (*i.e.* the consumer's credit score should actually 10 points or 22 points higher).[1] The CFPB concluded that "[c]redit scoring models which differentiate medical collections from other collections are likely to more accurately reflect the actual creditworthiness of consumers."[2]

Thus, we believe that the reporting of medical debt is not beneficial to consumers and the credit market. In many instances, medical debt is more of a reflection of this country's dysfunctional healthcare finance system rather than the individual creditworthiness of consumers.

The discussion draft of the Chairwoman Waters's Comprehensive Consumer Credit Reporting Reform Act released at the February 26, 2019 hearing, which we support, includes two provisions to improve the treatment of medical debt: (1) a requirement that the credit reporting agencies to wait a full year before placing a medical debt in a credit report;[3] and (2) a requirement that paid or settled medical debts be removed within 45 days from credit reports. The first provision ensures that consumers have adequate time to resolve their medical bills before they are reported to a CRA. Medical bills can often be complex and confusing especially given the role of a third party (the insurer) in making payment, and consumers deserve some breathing room to sort out payment and insurance issues before bills are reported on their credit reports. The second provision addresses the fact that some medical debts are sent to a debt collector while payment and insurance issues are sorted out, and these debt collectors might automatically report debts to the CRAs. This second provision ensures that once medical bills are paid off, the debt collector's entry is removed. This is important because even paid collection items can harm a consumer.

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[1] Consumer Fin. Prot. Bureau, Data Point: Medical Debt and Credit Scores (May 2014), www.consumerfinance.gov. *See also* Consumer Fin. Prot. Bureau, Consumer Credit Reports: A Study of Medical and Non-Medical Collections 7, 28 (Dec. 11, 2014), www.consumerfinance.gov (consumers whose credit reports show only collection items consisting of medical bills are more reliable payers, owe less, and have more available credit).

[2] *Id.*at 51–52.

[3] Note that the 180-day waiting period established by the nationwide CRAs before posting a medical collection on a consumer credit report was not a completely voluntary measure, as it was part of a settlement between the CRAs and a group of over 30 Attorneys General in May 2015. Assurance of Voluntary Compliance/Assurance of Voluntary Discontinuance, In the Matter of Equifax Info. Serv. L.L.C., Experian Info. Solutions, Inc., and TransUnion L.L.C., (May 20, 2015), https://www.ohioattorneygeneral.gov/Files/Briefing-Room/News-Releases/Consumer-Protection/2015-05-20-CRAs-AVC.aspx.

Answers from Chi Chi Wu to Written Questions for the Record from Congressman Stephen Lynch
"Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System"
Hearing before the Committee on Financial Services
February 26, 2019

1. *Under the Fair Credit Reporting Act (FCRA) credit bureaus are required to conduct a "reasonable" investigation when a consumer disputes an item on his report. How has this standard been applied by the bureaus? Some have argued that this standard has resulted in dispute investigations being carried out in an automated and perfunctory fashion, do you agree?*

We certainly agree that the credit bureaus have been processing disputes in an automated and perfunctory manner. In 2009, the National Consumer Law Center issued a report entitled Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Reports. This report documents how the credit bureaus' automated dispute systems were an unfair travesty. The credit bureaus' entire role in so-called investigations was to send the disputes to third party vendors, sometimes offshore, who then simply turned them into two or three digit codes, with maybe a line of text, and sent those codes to creditor or debt collector who supplied the information (called the "furnisher"). The credit bureaus would then always accept whatever the furnisher responded, even if it was clearly contradicted by the evidence like a court judgment or a police report, a practice called "parroting."

NCLC recently issued a 10 year follow-up to its 2009 report, entitled Automated Injustice Redux: Ten Years after a Key Report, Consumers Are Still Frustrated Trying to Fix Credit Reporting Errors (2019). This 10 year update report documents how there has been some improvement due to supervision of the credit bureaus by the Consumer Financial Protection Bureau and a settlement in 2015 obtained by over 30 state Attorneys General. However, problems with accuracy and getting errors fixed still very much frustrate consumers, including the consumers in the examples described in the report. These problems also frustrate the approximately 285,000 consumers who've filed complaints against Equifax, Experian and TransUnion with the CFPB, where credit reporting issues were the top category of complaints in 2017 and 2018. And while there has been some improvement to the dispute process, the credit bureaus still do not conduct their own independent investigations and still parrot the furnisher of the information.

The credit bureaus engage in parroting despite the fact that numerous courts have held that simply deferring to the furnisher does not comply with the requirement for a reasonable investigation under the Fair Credit Reporting Act. *See* National Consumer Law Center, Fair Credit Reporting § 4.5.3.4.5 (9th ed. 2017), *updated at* www.nclc.org/library (listing dozens of cases). The FCRA imposes a duty on the credit bureaus to conduct an independent investigation that is reasonable in nature – a duty that these companies have flagrantly ignored for decades. In fact, the written testimony of

TransUnion CEO Jim Peck documents this, as he details how that credit bureau processes disputes. He states:

- " Consumers can address inaccuracies on their TransUnion credit report for free online, by phone, or by mail. They can also supply us with supporting documentation. Consumers can file disputes both directly with TransUnion, and indirectly via many of our partners.
- "If we can resolve the dispute based on the information provided by the consumer, we make changes to the consumer's credit report within days to ensure consumers get the benefit of their payment behavior. Over 25% of disputes are resolved within one week.
- "If we cannot resolve the issue, we contact the provider of the disputed information [i.e., the furnisher] and forward the consumer's dispute and supporting documentation to the provider to investigate and verify the information, or modify or delete the item with us and in their records. Investigations are typically concluded within 30 days.
- "Once the investigation is complete, the consumer is provided with the results of their dispute investigation, details on how their disputed account(s) changed, and information about what they can do if they are not satisfied with the outcome of the dispute. When we communicate the results, TransUnion also provides access to a free copy of a full credit report."

Note what is missing from this list – there is no mention of TransUnion investigating, reviewing, analyzing, or making a determination after the dispute is referred to the furnisher of information. Whatever the furnisher responds, TransUnion will reflect in the consumer's credit report, even if the furnisher is a problematic debt collector or the consumer has definitive evidence such as a court judgment or legal settlement.

The problem with the dispute system under the FCRA is the credit bureaus have ignored and flouted the standard of a "reasonable investigation." That is why the proposals regarding the dispute system in Chairwomen Water's Comprehensive Consumer Credit Reporting Reform Act bill are so important. That bill gives consumers a right to appeal the results of initial disputes with an independent unit at the credit bureaus and requires credit bureaus to dedicate sufficient resources and provide well-trained personnel to handle disputes.

2. *How would switching the burden to prove accuracy and completeness of credit information from consumers to the credit bureaus and furnishers impact both consumers and the market?*

More accurate information would benefit both consumers and the market for credit. According to the Federal Trade Commission, 1 in 5 consumers has a verified error in their credit reports and 1 in 20 have seriously damaging errors – which means that 10 million Americans have errors serious enough to be denied or pay more for credit. Fixing the underlying problems with accuracy at the credit bureaus would help these Americans

access affordable credit, which would benefit both these consumers and the lenders who are missing out on them as good customers. To fix these problems, we support the requirement in Chairwoman Waters's bill to require the CFPB issue regulations establishing minimum procedures required for accuracy. This would include using stricter criteria to match information from a furnisher to a consumer's file, preventing the worst type of credit reporting error, the mixed file.

In terms of disputes, the burden under the FCRA to prove accuracy *should already be on the credit bureaus and furnishers.* Under Section 611(a)(5)(A) of the Act, 15 U.S.C. § 1681i(a)(5)(A), a credit bureau must delete an item if an investigation finds that the item is inaccurate or *cannot be verified.* Thus, if the credit bureaus and furnisher cannot verify the accuracy of information, the FCRA should require it to be removed. Unfortunately, the courts have failed to acknowledge the plain language of this provision and have required consumers to establish that information is inaccurate before the credit bureau is required to remove it. Congress should clarify its original intent that unverifiable information be deleted, *i.e.* that the burden is on the credit bureau and furnisher to prove the accuracy of disputed information.