

**Statement of Rebecca E. Kuehn  
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On Behalf of the Consumer Data Industry Association**

**Subcommittee on Oversight & Investigations  
Committee on Financial Services  
United States House of Representatives**

**Hearing on “Consumer Credit Reporting:  
Assessing Accuracy and Compliance”**

**May 26, 2021**

Chairman Green, Ranking Member Barr, and members of the Subcommittee, thank you for the opportunity to appear before you. My name is Rebecca Kuehn, and I am a partner at the law firm Hudson Cook, LLP, where I chair the Credit Reporting, Privacy, and Data Security Practice Group. Earlier in my career, I worked at the Federal Trade Commission (FTC), where I was Assistant Director of the Division of Privacy and Identity Protection in the Bureau of Consumer Protection, which oversees issues related to consumer privacy, credit reporting, identity theft, and information security. There, I led the Fair Credit Reporting Act program, and oversaw the Commission’s enforcement, outreach, and rulemaking activities in that area.

I am appearing today on behalf of the Consumer Data Industry Association (CDIA).

CDIA is the voice of the consumer reporting industry including the nationwide credit reporting agencies, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help all consumers – regardless of age, race, gender identity, sexual identification or any other discriminatory qualifier – achieve their financial goals, and to help businesses, governments and volunteer organizations avoid fraud.

Through data and analytics, CDIA members help to ensure fair and safe transactions for consumers, facilitating competition and expanding consumers' access to financial and other products suited to their unique needs. CDIA members' market-leading innovations prevent fraud and ease people into homes, jobs and cars with quiet efficiency. CDIA members work every day to empower economic opportunity for consumers, businesses, government agencies and nonprofits.

Credit reporting companies and other CDIA members are helping solve the problem of the unbanked and credit invisible populations by expanding the kinds of data collected, such as rental history or payments on telephone and other utility bills, giving lenders and others information that allow more consumers to responsibly access traditional financial services and integrate consumers into the mainstream financial system. In 2019, the Consumer Financial Protection Bureau (CFPB) noted in its Report on Fair Lending that roughly 20% of the adult population in the United States have no credit records, or such limited credit records that they are unable to fully participate in the marketplace for credit.<sup>1</sup> CDIA strongly believes that use of alternative data such as rental payments, utility and telecom payments will expand access to credit and bolster financial inclusion efforts and welcomes legislation design to remove barriers to report and use this data.

Today I want to focus on three key points:

- The accuracy of credit information and protecting the integrity of the dispute resolution system;

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<sup>1</sup> Consumer Financial Protection Bureau, *Fair Lending Report of the Bureau of Consumer Financial Protection* (June 2019), p. 8, available at: [https://files.consumerfinance.gov/f/documents/201906\\_cfpb\\_Fair\\_Lending\\_Report.pdf](https://files.consumerfinance.gov/f/documents/201906_cfpb_Fair_Lending_Report.pdf).

- Increases in consumer submissions to the CFPB complaint portal as a result of the growth of credit repair companies, an ongoing issue throughout the credit reporting system; and
- The impact of COVID-19 on consumers' credit, the protections enacted by the CARES Act, and the steps that CDIA and its members have taken to help consumers during the COVID-19 pandemic.

## **I. Accuracy and Dispute Resolution**

Consumer reporting agencies (CRAs) help the American consumer and larger economy by maintaining a robust consumer reporting system that facilitates consumer credit, employment and housing transactions nationwide. CRAs strive to continually improve the reports they provide and the systems through which they deliver them, including the accuracy of consumer report information. In any discussion of accuracy, it is important to start with an understanding of the framework established by the Fair Credit Reporting Act (FCRA)<sup>2</sup> and the steps taken by regulators and the industry to ensure that high standards are achieved.

### The Standard for Accuracy

CRAs have many duties under the FCRA, principal among these is the responsibility to “follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.”<sup>3</sup> Congress did not require consumer reports to meet a standard of perfection, nor did it impose a strict liability standard for inaccuracies. FCRA Section 602(b), 15 U.S.C. § 1681(b), states that “[i]t is the purpose of [the FCRA] to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce. . . with regard to the confidentiality, accuracy, relevancy, and proper utilization of [consumer report] information in accordance with the requirements of this title.”

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<sup>2</sup> 15 U.S.C. §§ 1681, *et seq.*

<sup>3</sup> Section 607(b), 15 U.S.C. § 1681e(b).

The FTC has recognized the need for balance. In its report to Congress on the credit reporting system, the FTC noted that the FCRA was designed to provide CRAs flexibility in their approach to accuracy: “Rather than precisely regulating the way that CRAs maintain their files, Congress opted to hold CRAs accountable for their procedures, and to give consumers the opportunity to check the accuracy of their files.”<sup>4</sup> The right of a consumer to access and dispute inaccurate information is an important component of accuracy – the FCRA “promotes accuracy by creating a self-help mechanism that empowers consumers to obtain copies of their reports and dispute erroneous or incomplete information.”<sup>5</sup>

The FCRA also focuses on data provided by “furnishers,” which are entities that have some relationship with the consumer and are providing data to consumer reporting agencies for inclusion in a consumer report. Reporting accurate information about consumers begins with the data coming into the system. As part of their accuracy procedures, CRAs screen potential furnishers and their data before they are even accepted as a furnisher. The nationwide consumer reporting agencies obtain information electronically using a standardized reporting format (the Metro 2 format) to facilitate the accurate and consistent reporting of data throughout the credit reporting system. Additionally, CRAs analyze the furnished data and perform data quality

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<sup>4</sup> Federal Trade Commission, *Report to Congress Under Section 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003* (FACTA Report), December 2004, at p. 8, n. 9, available at <https://www.ftc.gov/sites/default/files/documents/reports/under-section-318-and-319-fair-and-accurate-credit-transaction-act-2003/041209factarpt.pdf>.

<sup>5</sup> See Federal Trade Commission, *Prepared Statement of Federal Trade Commission, on Credit Reports: Consumers’ Ability to Dispute and Change Inaccurate Information, Before the House Committee on Financial Services* (FTC Testimony), June 19, 2007, at p. 4, available at [https://www.ftc.gov/sites/default/files/documents/public\\_statements/prepared-statement-federal-trade-commission-credit-reports-consumers-ability-dispute-and-change/070619credittestimony.pdf](https://www.ftc.gov/sites/default/files/documents/public_statements/prepared-statement-federal-trade-commission-credit-reports-consumers-ability-dispute-and-change/070619credittestimony.pdf); see also FACTA Report, at p. 8 (“In guaranteeing consumers access to their own credit reports and creating the dispute process, Congress recognized that consumers have a critical role in ensuring the accuracy of credit reports.”).

checks prior to adding the data to credit files.<sup>6</sup> Over time, these processes have evolved and improved, demonstrating CDIA members' continuous commitment to maintaining a high degree of accuracy in the data they report.

There is also a market incentive to ensure maximum possible accuracy. Users of credit reports rely on accurate data to make critical decisions about loans, employment, government benefits, and other important business needs. Financial institutions require accurate data to perform sound risk assessments and will look for a new provider if the data they obtain has systemic problems. Each CRA strives to meet these expectations for its customers.

As part of their overall approach to accuracy, the nationwide consumer reporting agencies have made significant investments in consumer dispute resolution. Much of the focus on improvements to consumer dispute resolution has been on making it easier for consumers to identify and correct potential errors in their files. The National Consumer Assistance Plan (NCAP), developed out of a voluntary settlement agreement with 30 state attorneys general and the nationwide consumer reporting agencies, was an important milestone in these efforts. To ensure accuracy, the nationwide consumer reporting agencies focused on improvements in several key areas:

1. Limiting collections being reported, including the type of collections, the timing of reporting and updating of reporting, and requiring debt collectors to include the name of the original creditor;
2. Retiring legacy reporting formats and requiring all furnishers to report in the Metro 2 format;

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<sup>6</sup> See Consumer Financial Protection Bureau, *Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation's largest credit bureaus manage consumer data* (Key Dimensions), December 2012 (noting that CRAs have established standardized reporting formats and that they "deliver credit reporting information to users in standardized electronic formats"), at pp. 3, 10, 14.

3. Prohibiting reporting on medical debts until at least 180 days have passed and removing medical debts paid or being paid by insurance companies from consumer reports to allow time for the insurance claim process;
4. Requiring the date of birth to be reported for authorized users; and
5. Establishing additional standards for ensuring the accuracy of public record information.

Since NCAP, the nationwide consumer reporting agencies have continued to work together to further improve the accuracy of consumer reports and encourage consumer education and empowerment. Today, consumers have a wide variety of tools available to them to proactively manage their credit, including access to free credit freezes and free annual credit reports from the nationwide consumer reporting agencies. The nationwide consumer reporting agencies all have enhanced their focus on education, empowering consumers with information about responsible credit management.

In addition, the nationwide consumer reporting agencies also invested in improving the dispute process in several key ways, as follows:

1. Sharing information about consumers who are reported as deceased;
2. Improving notices to consumers about the results of dispute investigation, the option to submit documents or a statement on their file, and the right to obtain an additional free consumer report after the investigation is complete;
3. Enhancing the e-Oscar system that is used by nationwide consumer reporting agencies and data furnishers to communicate dispute information and the results of the investigations, including any updates or deletions, and providing for additional dispute analysis; and

4. Implementing an escalation process for addressing disputes related to mixed consumer files and identity theft.

These enhanced dispute systems, processes, and analytics will further serve to ensure the accuracy of consumer report information.

Credit Reports Have a High Degree of Accuracy.

CDIA members strive to be as accurate as possible, and creditors and employers rely on accurate consumer reports to support effective decision-making. The FTC recognized that there is a “market incentive[] to maintain and improve the accuracy and completeness of [credit] reports.”<sup>7</sup> The Federal Reserve Board said that “[o]verall, research and creditor experience has consistently indicated that credit reporting company information...generally provides an effective measure of the relative credit risk posed by prospective borrowers.”<sup>8</sup>

Comprehensive studies demonstrate that credit reports have a high rate of accuracy where accuracy is judged by whether the error has a material impact on a consumer’s credit score. In 2011, the Policy and Economic Research Council (PERC) looked at over 81,000 credit accounts on consumers’ credit reports. This study was the most comprehensive and statistically validated study to ever be performed on the accuracy of data collected and maintained by the nationwide consumer reporting agencies, Equifax, Experian and TransUnion. The study was a third-party, peer-reviewed study dealing with credit report errors and their material effect on the creditworthiness of consumers. In this study, just 0.93% of all credit reports examined by the consumers prompted a dispute that resulted in a credit report correction and an increase of a

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<sup>7</sup> FACTA Report, at p. 7.

<sup>8</sup> Federal Reserve, *An Overview of Consumer Data and Consumer Reporting*, *Federal Reserve Bulletin*, at pp. 50-51 (citations omitted), available at <http://www.federalreserve.gov/pubs/bulletin/2003/0203lead.pdf>; see also Federal Reserve, *Credit Reporting Accuracy and Access to Credit*, *Federal Reserve Bulletin*, Summer 2004, p. 320.

credit score of 25 points or greater.<sup>9</sup> Similarly, a 2012 study conducted by the FTC showed that 98.7% of all credit reports are materially accurate.<sup>10</sup> The FTC data showed that just 2.2% of participants had errors in their reports that lowered their score tier by one or more tiers, such as moving them from prime to subprime.

### Congressional, Industry, and Regulatory Steps Leading to Improved Accuracy

As the credit reporting ecosystem has evolved, the FCRA has also evolved to address changing needs and issues arising in the consumer credit space. In particular, the FCRA has undergone both occasional fine tuning and significant revisions, including two in 1996 and 2003. In 1996, Congress amended the FCRA to impose new responsibilities on furnishers, the lenders and other companies that provide information to consumer reporting agencies.

The 2003 Fair and Accurate Credit Transactions Act (FACT Act) added a number of new or amended provisions to the FCRA designed, among other things, to prevent and assist victims of identity theft and enhance consumer privacy and consumer report accuracy. Significantly, the FACT Act increased consumers' opportunities to review their credit records and identify issues. Consumers have the right to receive a free credit report from the nationwide CRAs every twelve months, through the centralized source at [www.annualcreditreport.com](http://www.annualcreditreport.com), as well as from nationwide specialty CRAs.

The FACT Act and subsequent amendments to the FCRA also increased transparency into consumers' credit scores. The FACT Act gave consumers the ability to purchase a credit score from a CRA and required mortgage lenders to provide score disclosures. The Risk Based

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<sup>9</sup> Turner, Michael A., Robin Varghese, and Patrick D. Walker (2011). U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts (PERC Study).

<sup>10</sup> Federal Trade Commission, *Section 319 of the Fair and Accurate Credit Transactions Act of 2003: Fifth Interim Federal Trade Commission Report to Congress Concerning the Accuracy of Information in Consumer Reports* (FTC Report), December 2012, available at <http://www.ftc.gov/os/2013/02/130211factareport.pdf>.



Pricing Rule, promulgated by the FTC and the Federal Reserve in 2011, permitted users of consumer reports that engage in risk based pricing to comply with the rule by providing consumers who did not receive favorable rates with a specific notice, or, alternatively by providing each applicant with a credit score disclosure and information on where to obtain a copy of their credit report. As a result of subsequent amendments to the FCRA, there is a requirement to provide credit scores on risk-based pricing notices and adverse action notices, when a credit score was used in whole or in part to make a decision about a consumer.

The FACT Act extended a significant remedy to consumers whose consumer reports were impacted by identity theft. Specifically, victims are entitled to obtain underlying documentation associated with fraudulent transactions from creditors and have assurances that creditors will not furnish information resulting from fraudulent transactions to CRAs. FCRA Section 605B adds further protections to victims of identity theft by requiring CRAs to block the reporting of any information that the consumer identifies as resulting from identity theft, within four business days of receiving the following: (1) appropriate proof of the identity of the consumer; (2) a copy of the identify theft report; (3) the identification of the information resulting from the identify theft; and (4) a statement by the consumer that the information is not information relating to any transaction by the consumer. The CRA must then promptly notify the furnisher of the block and the identity theft report. This FCRA Section 605B process gives the CRA and the furnisher the opportunity to investigate the blocked transaction to understand whether there are other steps that could have been taken to detect the identity theft and to ensure that the victim's account is not subject to collection activity.

The FACT Act expanded the responsibilities of furnishers with respect to accuracy. Primarily, and most significantly, the FACT Act directed federal agencies to promulgate

regulations requiring furnishers to establish reasonable policies and procedures to comply with guidelines to be specified by the agencies regarding the accuracy of the information submit to all CRAs.<sup>11</sup> Second, the FACT Act granted consumers the right to dispute the accuracy of information appearing on their consumer reports directly with the furnisher of the disputed information. Third, the Act prohibited furnishers from re-reporting disputed information after it was found to be inaccurate or incomplete. The Furnisher Rule implemented these requirements, assuring furnishers report information on consumers accurately and with integrity.<sup>12</sup>

In 2012, the CFPB began supervising the credit reporting companies for, among other things, compliance with the FCRA, making accuracy a focus in its examination efforts. The nationwide consumer reporting agencies have been subject to continuous examination cycles, where they have been examined for the adequacy of their compliance management systems, their procedures to ensure the maximum possible accuracy of credit reports, their dispute handling procedures, and other important and highly regulated functions, such as data security. The nationwide consumer reporting agencies expend substantial resources responding to examiner requests and must maintain transparency with their examiners. If the examiners discover any areas in which a CRA is not living up to its obligations, the CFPB can resolve the issue through the supervisory process, or, if the issue is sufficiently serious, choose to bring a public enforcement action.

In its March 2017 Supervisory Highlights reports, for example, the CFPB detailed improvements implemented by CRAs including review of data governance programs, establishment of quality control programs, enhancement in oversight of third-party public records providers, review of new and existing furnishers and monitoring of furnisher dispute

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<sup>11</sup> See 16 C.F.R. 660, *et seq.* (The Furnisher Rule).

<sup>12</sup> *Id.*

data. In a more recent issue of Supervisory Highlights, the CFPB included discussion of furnisher reviews and examiner’s findings with respect to furnisher compliance with FCRA accuracy and dispute investigation requirements. The CFPB has also issued supervisory guidance directed to furnishers of information regarding reporting of accurate information and investigate disputes. Through its supervisory process, the CFPB gains insights into various CRAs and can provide guidance to other CRAs on process improvements, improving the entire ecosystem.

### The Credit Repair Industry

A robust dispute process is an important tool to maintain the accuracy of information in consumer reports. When a consumer identifies information in a consumer report that appears to be incorrect, the consumer may submit a dispute directly to the furnisher of the information or, alternatively, submit a dispute to the CRAs. The CRAs and furnishers must investigate the disputed information.<sup>13</sup> The nationwide consumer reporting agencies continually look for opportunities to enhance the efficiency of the investigation process so that consumer disputes can be resolved as expeditiously as possible. Undoubtedly, new technology and software continue to help evaluate the nature of disputed information and allow for swift detection and correction of errors, further ensuring the accuracy of the information on consumer reports.

The credit repair industry abuses this important consumer right by frivolously or fraudulently disputing knowingly accurate information in CRA databases, harming the accuracy and integrity of the credit reporting system and, more importantly, harming consumers. As the FTC observed, “unscrupulous credit repair firms can degrade the accuracy and quality of information in credit reports.”<sup>14</sup> To the extent that these credit repair activities are successful in

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<sup>13</sup> 15 U.S.C. § 1681i; 15 U.S.C. §§ 1681s-2(a)(8) and (9).

<sup>14</sup> FTC Testimony, at p. 18 citing to *FTC v. ICR Services, Inc.*, Civ. No. 03-C-5532 (N.D. Ill. 2003).

removing accurate information, they affect a lender's ability to appropriately assess the risk of their lending decisions, which in turn affects lending quality overall. Consumers may be approved for loans that are beyond their ability to pay, leading to over-indebtedness. Misuse of the dispute process is detrimental to consumers and the lenders that rely on accurate information to appropriately assess risk.

Credit repair companies provide misinformation or mislead consumers into disputing knowingly accurate information simply because it is negative, and in some cases, when there is no negative information at all. In other cases, consumers are expecting instant updates of information and may dispute a tradeline that was accurate at the time it was furnished and which will be updated in the normal furnishing process. For these "services," credit repair companies charge substantial fees. In an effort to curb these abuses, the FTC and the CFPB have brought enforcement actions against businesses engaging in fraudulent credit repair.<sup>15</sup>

One such enforcement case illustrates the harms to consumers. In an enforcement action brought in 2019, the FTC charged the defendant credit repair companies with violations of federal law based on their false claim that they "can improve consumer's credit scores by

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<sup>15</sup> The FTC, which enforces the Credit Repair Organizations Act (CROA), 15 U.S.C. §§ 1679-1679I, and Telemarketing Sales Rule, 15 CFR Part 310 recently brought actions against Grand Teton Professionals, LLC d/b/a Deletion Expert, Inquiry Busters and Top Tradelines, and a group of related companies, for among other things, operating unlawful credit repair scams that deceived consumers across the country. See Complaint in case of *Federal Trade Commission v. Grand Teton Professionals, LLC, et al.*, Civ. No. 3:19-cv-00933 (D. Conn. June 17, 2019) (<https://www.ftc.gov/news-events/press-releases/2019/06/ftc-stops-operators-fake-credit-repair-scheme>). The FTC filed other cases to protect consumers from fraudulent credit repair schemes. See, e.g., *Federal Trade Commission v. Strategic Student Solutions, LLC, et al.*, Civ. No. 17-cv-80619 (S.D. Fla. May 15, 2017) <https://www.ftc.gov/news-events/press-releases/2017/05/ftc-stops-operators-unlawful-student-debt-relief-credit-repair>. The CFPB has used its authority under the Dodd Frank Act to pursue unfair, deceptive, and abusive acts or practices, as well its authority to enforce the Telemarketing Sales Rule, to bring enforcement actions against Prime Marketing Holdings, LLC for misleading consumers about the costs and benefits of services, and charging illegal fees. *Consumer Financial Protection Bureau v. Prime Marketing Holdings, LLC*, Civ. No. 16-cv-7111 (C.D. Cal. Sept. 22, 2016), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-credit-repair-company-misleading-consumers-and-charging-illegal-fees/>.

removing all negative items and hard inquiries from their credit reports or by adding seasoned tradelines to their credit histories.”<sup>16</sup> The consumer declarations submitted to the court by the FTC illustrate the financial harms that consumers can suffer – paying thousands of dollars each for the empty promise of a quick fix.

In particular, one consumer, Jennifer, was charged \$1,999 in exchange for the promise that the process of removing all negative items and hard inquiries (whether accurate or not) would be completed within 8 weeks. Another consumer, David, paid a \$2,250 up front fee to remove certain late payments from his credit report. Neither Jennifer nor David received the services they were promised. Yet another consumer, Kenneth, who wanted to improve his credit to qualify for a business loan to start his own company, paid \$3,000 to have the credit repair company raise his score to 720 in 30-60 days. After about a year, Kenneth was able to raise his score, but solely through his own efforts and changes that he made, not thanks to the credit repair company.<sup>17</sup>

This case also highlights one of the other ways in which credit repair operators abuse the tools that were designed to help consumers. The FTC further alleged that the companies “encourage consumers to file an identity theft affidavit to remove negative information and inquiries, even when consumers explain that they were not victims of identity theft.”<sup>18</sup> The misuse of the FTC identity theft report as a tool for credit repair has a significant, negative effect on the overall accuracy and reliability of credit reports, as it blocks accurate information from being reported and impacts a creditor’s ability to collect on legitimately-incurred debts.

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<sup>16</sup> *Federal Trade Commission v. Grand Teton Professionals, LLC, et al.*, Case No. 3:19-cv-00933-VAB (D. Conn.), Complaint at ¶ 20 (*Grand Teton Complaint*) (filed June 17, 2019).

<sup>17</sup> *See Federal Trade Commission v. Grand Teton Professionals, LLC, et al.*, Case No. 3:19-cv-00933-VAB (D. Conn.), Declarations in Support of Motion for Temporary Restraining Order (Dkt. Nos. 10-1, 10-2, and 10-3) (filed June 17, 2019)

<sup>18</sup> *Grand Teton Complaint* at ¶ 42.

Credit repair companies submit multiple, if not dozens of disputes for each consumer, whether the data are accurate or not. The time and resources expended investigating disputes made by credit repair companies take away time and resources from focusing on legitimate disputes, which could otherwise be handled more quickly. The disputes are often baseless and lack any supporting documentation, but still require sufficient attention and effort of the nationwide consumer reporting agencies and data furnishers. These disputes artificially inflate the statistics about dispute volumes and types of disputes and also distort the statistics reflected in the CFPB's complaint portal (which is similarly misused by credit repair companies), making the system appear less accurate than it is.

## **II. The CFPB's Recent Report on Complaints**

In a recent report on its consumer complaint portal, the CFPB noted that consumer submissions related to consumer reporting agencies jumped 54% in 2020.<sup>19</sup> However, a deeper analysis of the submissions show there has not been an increase in complaints about consumer reporting agencies – such as a consumer expressing dissatisfaction about something a consumer reporting agency has done, problems with contacting a consumer reporting agency, how a dispute was handled, or a problem with a product. Instead, the data reveals that 73% of submissions related to consumer reporting agencies were disputes, which are subject to an established statutory scheme.<sup>20</sup>

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<sup>19</sup> Bureau of Consumer Financial Protection, Consumer Response Annual Report, January 1 – December 31, 2020 (March 2021), *available at*: [https://files.consumerfinance.gov/f/documents/cfpb\\_2020-consumer-response-annual-report\\_03-2021.pdf](https://files.consumerfinance.gov/f/documents/cfpb_2020-consumer-response-annual-report_03-2021.pdf)

<sup>20</sup> In order to provide accurate complaint data associated with the nationwide consumer reporting agencies and other consumer reporting agencies, CDIA believes that the CFPB should work to differentiate disputes. This differentiation, which should be in both the design of the portal and the information that the CFPB makes available to consumers, should separate those disputes that are subject to the established FCRA statutory scheme from the complaints that may be submitted through the CFPB portal.

Based on the experiences of CDIA members, the increase in consumer submissions largely reflects the increased use of the CFPB complaint portal by credit repair companies, which now seek to take advantage of the CFPB complaint process as another avenue to flood the system with disputes in an effort to remove accurate, negative information from a consumer's credit report. Credit repair operators submit disputes simultaneous to the furnishers, the credit reporting agencies, and the CFPB complaint portal in the hopes that something slips through. The CFPB's report acknowledges that some consumers are working with credit repair companies, although the report does not distinguish between submissions filed directly by consumers and by third parties. The inclusion of disputes submitted by credit repair operators distort the statistics reflected in the CFPB's complaint portal.<sup>21</sup>

### **III. Reporting Under CARES Act During COVID-19**

The nationwide consumer reporting companies have long had systems in place to minimize the impact of disasters and other singular situations on consumers' credit standing. These programs also extend to consumers' financial hardships outside of a disaster.

- Lenders and creditors have programs, like forbearance programs and deferred payment plans, to help consumers through financial distress, including natural and declared disasters.
- Credit bureaus have long had codes in place to enable lenders and creditors to report consumers in financial distress (forbearance plans, deferred payment plans) or who are subject to natural or declared disasters.

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<sup>21</sup> In light of the pandemic, there was some concern that the increase in complaints can be attributed to COVID-19. But the report suggests this may not be entirely true. 32,100 complaints mentioned coronavirus or related words, representing just 6% of submissions in 2020.

- These credit reporting codes for consumers have been in place since before September 11, and have helped consumers then, now, and in the hurricanes, floods, fires, tornadoes in between.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, passed by Congress in March 2020, implemented a number of additional protections for consumers and their credit files. The CARES Act requires lenders and creditors who agree to account forbearance or modified payments to report those obligations as “current” if the consumer has trouble making a full payment during the COVID-19 crisis.<sup>22</sup> In addition, the CARES Act provides temporary relief for federal student loan borrowers, suspending monthly payments and interests for loans in repayment through September 2021. For those federal student loans, the CARES Act requires that the payments that have been suspended be treated as if it were a regularly scheduled payment made by a borrower.<sup>23</sup> The CARES Act also provided additional relief for federal mortgage loans.<sup>24</sup>

Federal and state banking regulators have encouraged financial institutions to work with consumers during this public health emergency. These agencies have “encourage[d] financial

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<sup>22</sup> See CARES Act, Section 4021. Under this section, furnishers of information to credit reporting agencies who agree to account forbearance, or agree to modified payments with respect to an obligation or account of a consumer that has been impacted by COVID-19, report such obligation or account as “current” or as the status reported prior to the accommodation during the period of accommodation unless the consumer becomes current. This applies only to accounts for which the consumer has fulfilled requirements pursuant to the forbearance or modified payment agreement. Such credit protection is available beginning January 31, 2020 and ends at the later of 120 days after enactment or 120 days after the date the national emergency declaration related to the coronavirus is terminated.

<sup>23</sup> CARES Act, Section 3513.

<sup>24</sup> CARES Act, Section 4022(b)(2) (“Duration of Forbearance. Upon a request by a borrower for forbearance under paragraph (1), such forbearance shall be granted for up to 180 days and shall be extended for an additional period of up to 180 days at the request of the borrower, provided that, at the borrower’s request, either the initial or extended period of forbearance may be shortened.”).



institutions to work prudently with borrowers who are or may be unable to meet their contractual payment obligations because of the effects of COVID-19.”<sup>25</sup>

And there are signs that, despite the challenges that the pandemic has created, consumers have been weathering the storm. The national average FICO score increased by seven points in 2020, the largest annual improvement in at least a decade.<sup>26</sup> Consumers reduced their credit card debt by 14%, which impacts credit utilization, and the portion of consumers with a subprime score decreased nearly 3%.<sup>27</sup> A FICO spokesperson said that for 2020, “[m]issed payments reported are down, consumer debt levels are decreasing and the significant steps taken by both the government [with] stimulus spending and private sector [with] lender payment accommodations to help consumers affected by COVID-19 are all contributing to this trend in average score.”<sup>28</sup>

The consumer reporting industry is doing its part to help consumers and the economy during the pandemic<sup>29</sup>. Following the enactment of the CARES Act, CDIA issued guidance to help furnishers report accommodations under CARES Act<sup>30</sup> and to report accounts after accommodations end.<sup>31</sup> CDIA has provided numerous training sessions to furnishers on the CARES Act reporting requirements.

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<sup>25</sup> Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Agencies Joint Statement, March 22, 2020).

<sup>26</sup> Experian 2020 Consumer Credit Review, <https://www.experian.com/blogs/ask-experian/consumer-credit-review/>.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* These findings were consistent with what the CFPB reported early in the pandemic. In a report issued in August 2020, the CFPB noted that from March 2020 to June 2020, consumers had not experienced significant increases in delinquency or other negatives credit outcomes following the onset of the COVID-19 pandemic, and that credit card balances fell substantially. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-examines-pandemic-impact-on-consumer-credit/>.

<sup>29</sup> <https://www.cdiaonline.org/covid-19/>.

<sup>30</sup> <https://cdia-news.s3.amazonaws.com/COVID-19/CRA+Data+Reporting++COVID-19+CARES+Act+Guidance+4-2-2020-2.pdf>.

<sup>31</sup> <https://cdia-news.s3.amazonaws.com/CARES+Act+Post-Accommodation+Reporting+Guidance.pdf>.

The three nationwide consumer reporting agencies each have COVID-19 resources on their websites to help inform consumers of the options and resources available to help them manage their credit during the pandemic.<sup>32</sup> To help people across the country manage their financial health during the ongoing hardship caused by COVID-19, the three nationwide consumer reporting agencies voluntarily increased the number of free credit reports available to consumers from once per year to once per week through April 20, 2022. These companies also have offered a number of other free services to consumers during the pandemic, including credit monitoring.<sup>33</sup> As the nation works towards recovery, CDIA and its members are committed to providing consumers with the tools that they need to be knowledgeable about their financial information.

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Thank you again for the opportunity to testify before you today. I am happy to answer any questions.

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<sup>32</sup> <https://www.equifax.com/personal/covid-19/coronavirus-manage-personal-finances/>;  
<https://www.transunion.com/covid-19>; <https://www.experian.com/blogs/ask-experian/coronavirus/>.

<sup>33</sup> <https://www.cdiaonline.org/covid-19/>.