



STATEMENT OF
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BEFORE THE

Committee on Financial Services

Subcommittee on Financial Institutions and Consumer Credit

House of Representatives

ON

“Keeping Score on Credit Scores: An Overview of Credit Scores, Credit Reports and
their Impact on Consumers”

March 24, 2010

Chairman Gutierrez, Ranking Member Hensarling and Members of the Subcommittee, thank you for this opportunity to appear today. I am Stuart Pratt, President and CEO of the Consumer Data Industry Association (CDIA).

The CDIA is an international trade association representing approximately 250 consumer data companies that are the nation's leading institutions in credit and mortgage reporting services, decisions sciences software development, fraud prevention and risk management technologies, tenant and employment screening services, check fraud prevention and verification products, and collection services.

We commend you for holding this hearing, and welcome the opportunity to share our views.

My comments today, which are augmented materially by the written statements provided by each of our members who are with me here today at the witness table, will focus primarily on:

- The Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*): a law which provides superior protections for consumers and which allows for a vibrant and competitive industry that develops the world's best products and services, which benefit consumers.
- The three explanations requested in the letters of invitation sent to our members;
and

- General background the fairness and material contribution of credit scores to consumers and our nation's economy.

Congressional Review of FCRA and Credit Histories

In 1996, and again in 2003, the congress extensively reviewed and materially updated the Fair Credit Reporting Act. This is a law which strikes the right balance between necessary protections for all of us as consumers and one that does not restrain a competitive industry which benefits both consumers and the economy.

In fact, the Fair and Accurate Credit Transactions Act of 2003¹, often known as the FACT Act, was considered a tremendous bipartisan success. It was originally passed by this committee by a vote of 63-3 and by the House by a vote of 392-30. Regarding the Senate efforts, Senator Sarbanes (D-MD), then ranking member on the Senate Banking Committee, was quoted in the Congressional Record as saying that

“I want to acknowledge the thorough examination of these important issues provided by the comprehensive series of six hearings on this subject that Chairman Shelby held in the Banking Committee. The bill passed unanimously out of the Banking Committee on a voice vote on September 23, 2003 and was adopted 95-2 on the floor on November 5, 2003. These votes, I believe, are a testament to our chairman's willingness to work on a bipartisan basis.”²

¹ PL 108-159

² Senate Record (GPO Version) – Page S15806 – November 24, 2003.

The FCRA regulates the operations of all consumer reporting agencies (CRAs) and thus there are many types of databases used which are covered by the statute. As previously discussed, the FCRA is a very contemporary consumer protection statute. Rights accorded to consumers are extensive and included below is the FTC's own accounting of those rights:

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you -- such as if you pay your bills on time or have filed bankruptcy -- to creditors, employers, landlords, and other businesses. You can find the complete text of the FCRA, 15 U.S.C. 1681-1681u, at the Federal Trade Commission's web site (<http://www.ftc.gov>). The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

- **You must be told if information in your file has been used against you.** Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.
- **You can find out what is in your file.** At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a CRA may charge you up to eight dollars.
- **You can dispute inaccurate information with the CRA.** If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.
- **Inaccurate information must be corrected or deleted.** A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. **However, the CRA is not required to remove accurate data from your file unless**

it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.

- **You can dispute inaccurate items with the source of the information.** If you tell anyone -- such as a creditor who reports to a CRA -- that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.
- **Outdated information may not be reported.** In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.
- **Access to your file is limited.** A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.
- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.
- **You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers.** Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.
- **You may seek damages from violators.** If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA:

FOR QUESTIONS OR CONCERNS REGARDING:	PLEASE CONTACT:
CRAs, creditors and others not listed below	Federal Trade Commission Consumer Response Center - FCRA Washington, DC 20580 1-877-382-4367 (Toll-Free)
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 202-452-3693

Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Programs Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-518-6360
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance & Consumer Affairs Washington, DC 20429 800-934-FDIC
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 202-720-7051

Explanation I – “Please explain the basics of how consumer credit reports are compiled including what sources of information you collect and how they are collected.”

The FCRA defines the term “consumer report,” including a subset of consumer reports that are popularly called “credit reports”, which are those reports which include credit payment data and other similar data. The type of information contained in a credit report are:

- Identifying Information – Name, Current and Previous Addresses, Social Security Number, Date of Birth;
- Credit History – History of satisfying obligations to retail stores, banks, finance companies, mortgage companies and other lenders;
- Public & Collection Agency Records (that bear upon credit-worthiness) – Judgments, Foreclosures, Bankruptcies, Collections, Tax Liens, Garnishments; and

- Inquiries – Identifies credit grantors or other parties that have received a copy of the consumer's credit report, typically during the past 2 years. Also, lists companies who received consumer information for the purpose of offering credit or other promotions.

Notably, credit reports do not contain information about an individual's race, color, religion, or national origin.

The majority of all data furnished to a consumer credit reporting agency comes from lending institutions such as community banks, national and regional banks, credit unions, credit card issuers, mortgage lenders, retailers, and finance companies. These financial institutions voluntarily supply data in compliance with FCRA Section 623. CDIA estimates that there are approximately 18,000 sources of data supplying more than three billion updates to consumer files every month. Other data is supplied by third-party collection agencies which provide services to creditors and other U.S. businesses. Public record data, such as a tax lien, judgment or bankruptcy is provided by contractors to the nationwide consumer credit reporting agencies. The method by which data are supplied varies, but most is supplied either via direct, encrypted electronic submission or via various computer media such as a tape which is shipped by the financial institution.

Even in this time of economic hardship, the vast majority of data in our members' systems simply confirms what most of you would expect: consumers pay their bills on time and are responsible, good credit risks.

Contrast this positive credit history with the experience in other countries, such as Japan

or Italy, which store only negative data and do not give consumers recognition for the responsible management of their finances. Ultimately, the U.S. credit reporting system is the benchmark for other countries, and results far greater fairness measured by the allocation of risk relative to the price paid by a consumer.

We must preserve and expand on this system of risk-management data. While it might be tempting to reduce the availability of data, it is important to preserve the totality of every consumer's credit history. For instance, as discussed above, the positive credit history of a consumer demonstrates that a consumer is a responsible management of credit. It is this depth of data which helps to ensure that no one event is the final word for a lender as it responsibly and fairly estimates risk. To reduce the amount of data that is available, to prohibit data sources from furnishing the data, to require a furnisher to delay the furnishing of data or to prohibit a user from analyzing certain data are all wrong choices. Transparency between consumers and their financial institutions is a key concept. The credit report is central to this transparency, including both the most immediate payment data and also the historical record of a consumer's years of responsible credit management.

Explanation II – “Please explain the different types of reports you develop and who purchases them.”

FCRA Section 604 establishes the permissible purposes for which a consumer report can be sold. The FTC's consumer rights statement says that a “consumer reporting agency

may provide information about you only to people with a valid need -- usually to consider an application with a creditor [e.g., mortgage loan, home equity line of credit, auto loan, retail installment, credit card, etc.], insurer, employer, landlord, or other business.” Our members provide consumer credit reports for all permissible purposes under the FCRA where there is a market for them. These reports validate that we as consumers are responsible, careful and most often, worthy of the risks associated with the product for which we have applied. Consumer reports tell the consumer’s story in an unbiased and complete fashion, allowing a consumer’s whole story to be told. They also serve an essential function in our nation’s economy by also ensuring the safety and soundness of lending and underwriting decisions and allowing U.S. businesses to effectively manage risks.

Explanation III – “Please detail your efforts to increase the accuracy and predictability of your reports, especially with regards to consumers with “thin files” and no previous credit histories.”

The accuracy of all consumer reports (including credit reports) is a matter of law and is also a marketplace expectation.

First, the Federal Reserve Board studied approximately 300,000 credit reports for purposes of determining the quality of data. Their report included the following finding:

“This analysis of the effects of data problems on credit history scores indicates that the proportion of individuals affected by any single type of data problem appears to be small...”

“Available evidence indicates that the information that credit-reporting [sic] agencies maintain on the credit-related experiences of consumers, and the credit history scoring models derived from

these experiences, have substantially improved the overall quality of credit decisions while reducing the costs of such decision making.” Avery, Robert, et al., Federal Reserve Bulletin, “Credit Report Accuracy and Access to Credit”, Summer 2004.

Further, since December 2004, consumers themselves have been reviewing their credit report disclosures at rates never before seen in the history of the industry due to the system designed by our members to give consumers free access to them. Ultimately the consumer experience in reviewing their own credit report disclosures validates the conclusions of the Federal Reserve study. Between 2004 and 2006, more than 52 million free credit report disclosures were provided to consumers who exercised their rights under the FACT Act. Approximately 90% of consumers had no questions or disputes regarding their reports, and, only 1.98% of them resulted in a dispute where data was deleted from the file. The success of this program has continued and our members now estimate that since the inception of the right to a free consumer credit file disclosure in December of 2004, more than 150 million credit file disclosures have been issued.

Users of credit reports have similar experiences regarding dispute rates and the accuracy of the data used for underwriting. Consider the following, which involves 17 million credit reports:

“In 2001, Allstate ordered over 17 million credit reports. The number of written requests from consumers disputing information on their credit report totaled less than 3,000, or .017 percent of the total number of reports ordered. Of the number of legitimate disputes, only some would have any bearing on the insurance score because we only look at certain characteristics. Of the number affecting the insurance score, only some would affect the discount amount because the score must change by a certain amount to move into another discount category. Thus, the number of inaccurate credit reports that affect the premium charged is at most a subset of a subset of a subset of .017 percent.”³

³ Allstate Insurance Company’s Additional Written Testimony: Allstate’s Use of Credit Scoring, before the Michigan Office of Financial and Insurance Services, July 23, 2002.

While there have been prior efforts to quantify the accuracy of data, none involved large or valid samples of data. In fact the General Accountability Office makes the following observation regarding these efforts:

“We cannot determine the frequency of errors in credit reports based on the Consumer Federation of America, U.S. PIRG, and Consumers Union studies. Two of the studies did not use a statistically representative methodology because they examined only the credit files of their employees who verified the accuracy of the information, and it was not clear if the sampling methodology in the third study was statistically projectable.” Statement of Richard J. Hillman, Director, Financial Markets and Community Investment, General Accountability Office, Before the Senate Banking Committee, July 31, 2003.

The data cited above speaks to the success of our members’ ongoing efforts, though they are always striving to ensure the quality of the data coming into in their systems.

Following is a sampling of just some of the strategies they employ in this regard:

New data furnishers – all of our members utilize specialized staff, policies and procedural systems to evaluate each new data furnisher and assist them in becoming compliant with the data furnishing standards of our members. Common practices include reviews of licensing, references, and site visits. All apply robust tests to sample data sets and all work with the furnisher to conform data reporting to the Metro 2 data standard. Once a furnisher is approved, there may be ongoing monitoring of this data reporting stream during a probationary period of time.

Ongoing furnishing – Our members employ a variety of practices to secure continued and on-going accuracy:

- When update information is received from data furnishers, it is reviewed by the CRAs for reporting issues, which are resolved before the update information is loaded into the actual credit files... This review and reporting process helps to provide feedback to data furnishers regarding the quality of their data furnishing practices;
- Cross-referencing data in certain fields to look for logical inconsistencies is often used as a data quality check;
- Historical data reporting trends, at the database level or data furnisher level, are used as baseline metrics upon which to evaluate incoming data;
- Manual reviews of data can occur when anomalous data reporting trends are identified; and
- Reviewing incoming data for consistency with the Metro 2 data standard.

Furnishers and Metro 2 Data Reporting Standard

CDIA members have also voluntarily developed a data reporting standard for all 18,000 data sources which contribute to their databases; the latest iteration of this standard is titled Metro2.

Standardizing how data is reported to the consumer is a key strategy for improving data quality by creating a uniform and universal method of data sharing.

Use of the Metro 2 data reporting format is climbing steadily. In 2005 CDIA reported that approximately 50 percent of all data provided to our members' data bases was reported using the Metro2 Format. Today, this percentage has grown to 81.3

percent.

In addition to our members' individual efforts to encourage adoption of the Metro 2 Format, CDIA provides furnishers with free access to a "Credit Reporting Resource Guide," which is the comprehensive overview of the Metro2 Format. This guide is designed for all types of data furnishers, to encourage the proper use of the format.

This Guide also provides specific guidance for certain types of furnishers, such as collection agencies, agencies which purchase distressed debt, all parties which report data on student loans, child support enforcement agencies and utility companies, which may have unique issues that need to be addressed.

More than 500 of these guides are provided free of charge to data furnishers each year. Further, since 2004, CDIA and its Metro2 Task Force have held workshops for thousands of data furnishers on a range of specialized topics regarding Metro2 including, for example:

- Reporting of Mortgage Loans
- Reporting Requirements for Third Party Collection Agencies and Debt Purchasers; and
- Reporting Requirements Specific to Legislation & Accounts Included in Bankruptcy.

4) What about the data sources themselves and accuracy?

As this Committee knows better than any other in the House, there are also legal requirements that data furnishers must abide by regarding the accuracy of data that they submit to a consumer reporting agency.

The FACT Act made a number of significant changes to the FCRA to enhance the accuracy of consumer credit files.⁴ For instance, data furnishers are prohibited from furnishing data they know is inaccurate, and they have an affirmative duty to correct and update information. A number of new FACT Act regulations are now final and include:

- Direct Disputes - The FRB, NCUA and FTC have published final guidelines and regulations that provide consumers with the opportunity to initiate disputes directly with data furnishers, as opposed to going through the CRA to run that dispute;
- Accuracy and Integrity – The same agencies have also published final guidelines and regulations to address the accuracy and integrity of the data furnished to consumer reporting agencies ; and
- Red Flag Guidelines – New rules have been finalized for resolving address discrepancies. Resolving such discrepancies at the account opening will reduce the likelihood that data reported to a consumer reporting agency is inaccurate.

⁴ Federal Trade Commission, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003*, Dec. 2004, vii.

However, Congress must give these rules and regulations time to work before making additional changes to the process. In fact, the FRB and FTC issued a FACTA required study in August of 2006 that concluded that no new legislative requirements should be instituted at this time:

“The FACT Act Section 313(b)(4) requires the FTC and the Board include in this report any legislative or administrative recommendations for improvements to the dispute process that the agencies jointly determine to be appropriate. The agencies recommend that no legislative action be taken at this time, in large part because the agencies believe such action would be premature. The FACT Act imposes a number of new requirements on CRAS and furnishers that should enhance the consumer dispute process and improve accuracy, including measures to reduce identity theft and new requirements on furnishers. Many of these requirements are being implemented, and their effects on the dispute process have yet to be seen. This is particularly important given the voluntary nature of the reporting system and the uncertainty of how additional requirements and burdens would affect that system.” Federal Trade Commission “Report to Congress on the Fair Credit Reporting Act Dispute Process”, August 2006, Pp. 34.

What about consumers whose credit reports cannot be scored or who simply do not have one?

CDIA’s members are at the forefront of studying this question and bringing forward market-based solutions. Interestingly the Center for Economic Justice pointed out in offered in a previous congress that many “non-traditional” lenders, such as rental landlords, finance companies and other lenders often do not report any data to credit bureaus. This means that consumers who have not been part of the system, who do not have established credit, may have difficulty establishing credit, trapping them in a catch-

22.

However, what this committee needs to know is that there is tremendous progress and real-world products on the market today that are helping to further address the issue of how consumers with little “traditional” payment history can establish credit and benefit from a positive payment history in a traditional underwriting process.

Publicly Available Data - Several of our members already compile public record data which can then be used for underwriting loans. A consumer’s ownership of a home, a car or other asset can help contribute to an underwriting process. These data are commercially available today, are being used in credit underwriting processes where there is no traditional credit report or one which cannot be scored.

Rental and Utility Payment Data – A number of our members are adding utility and telecommunications payment data to traditional credit reporting databases or are managing utility industry payment data exchanges which are also sources for utility and telecomm payment data. These data are being used in credit underwriting decisions today. We also have members who are in direct discussions with rental payment data sources to expand reporting of these data for underwriting purposes. Other members of the CDIA are aggregating consumer payment data where such data reported by the consumer’s bank through direct payments made from checking accounts.

Validating Consumer-Submitted Data – A number of our members also provide services where they will validate payment data (paid bills, etc.) provided by a consumer directly to a lender. In some cases a scoring system is built into these models.

Empirical Studies Suggest a Promising Future: FTC FACT Act Study – The December 2004 Report by the FTC to Congress under sections 318 and 319 of the Fair and Accurate Credit Transactions Act indicates that bill payment histories at utilities and telecommunications companies could be utilized as a source of predictive data. Other more recent studies have reached similar conclusions.

With this positive context in mind, it is important for this Committee to know that there are barriers to wide-spread reporting of this type of payment data which may impinge on fully integrating such data into underwriting processes. For instance, anecdotally we have heard that some companies do not want to incur the expense and potential liability associated with reporting information due to the fact that such data may be defined under telecommunications law as customer proprietary network information or CPNI. Further, State Public Utility Commissions (PUCs) may also raise barriers that prevent the reporting of valuable and predictive payment data due either to outright prohibitions and in some cases perhaps due to the lack of clear guidance.

Credit Scores –

Our members are more than nationwide consumer credit reporting companies. They are global leaders in the production of tools which help companies manage risk. Consistent with the wishes of this committee witnesses for Equifax, Experian and TransUnion have

submitted written statements each of which will inform the thinking of this committee regarding the critical value of credit scores both for consumers and for our economy as a whole. In our view the following are all important points:

- There is no one credit score. There are many score development companies in the market place today and competition is fierce. This competition ensures market-leading tools are used to the benefit of consumers and the companies with which they do business.
- Credit scores remove social bias and provide fair treatment for consumers.
- These software tools protect us as consumers from mere opinion or from the untrained eye of a new loan officer who does not have a lifetime of experience.
- Credit scores help lenders manage risk such that they can extend credit to more consumers than would otherwise be the case.
- Credit scores give consumers credit for their hard work and are a consistent measure of risk.

Summary

In summary, the nationwide consumer credit reporting system is subject to balanced regulation that effectively protects us as consumers and at the same time enables industry to innovate and produce tools which are studied by credit economies from around the globe. Our members maintain the most complete and robust sets of data of any country in the world and these data sets are expanding to help consumers who are underserved

today. We must preserve this essential risk-management data and also the decision sciences industry which is producing the world's leading tools used to manage risk at the level of an individual account, a portfolio and the national level, as well.

We thank you for the opportunity to testify and look forward to your questions.