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The Honorable Mike Crapo
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

On behalf of America's Credit Unions thank you for holding the hearing, "An Overview of the Credit Bureaus and the Fair Credit Reporting Act." The Credit Union National Association (CUNA) represents America's Credit Unions and their 110 million members.

The Fair Credit Reporting Act (FCRA) was passed by Congress in 1970 to ensure the integrity of an individual's personal data maintained by the credit reporting agencies. CUNA supports the original purpose of the FCRA and its importance in ensuring consumers' financial information is handled and used in an appropriate and responsible manner. However, the FCRA statute, implementing regulations, and supplementary guidance could be updated and modernized to provide more clarity and flexibility for financial institutions.

The FCRA does not currently impose caps on recoveries in class action lawsuits. While not uncommon in some legal contexts, both the Equal Credit Opportunity Act (ECOA) and Fair Debt Collecting Practices Act (FDCPA) contain caps on potential recoveries. This divergence creates a ripe opportunity for unscrupulous plaintiff's attorneys to file frivolous lawsuits against financial institutions. To remedy this situation, Congress could explore the potential for modernizing the FCRA to include some limitations on recoveries.

Credit unions have a reputation for providing responsible credit to their members and engaging in thorough underwriting processes. Complying with the law is of the utmost importance to credit union compliance personnel, and areas of regulatory uncertainty can create unnecessary burdens.

In many cases, an individual consumer's credit report contains information crucial to the decision-making process financial institutions undergo prior to extending credit to a borrower. The Bureau of Consumer Financial Protection (BCFP) should continue to thoroughly examine its FCRA regulation and guidance documents. In particular, the BCFP could provide clarity in four key areas:

- Clarify that entities may provide a consumer who was approved for credit with their credit report and additional information tangential to that consumer's credit report. While mandatory disclosure is required in response to an adverse action, the Bureau has not yet expressly clarified what information may be given in situations involving an approval of the application.
- Clarify and potentially expand the requirement of "permissible purpose" to obtain consumers' credit reports.
- Expand what entities may say to consumers about the credit score impact of paying off debts, which could result in more meaningful financial education tools for consumers.
- Streamline the current opt-out notice requirements to eliminate any duplication and reduce the potential of redundant notices.

In addition, while unrelated to the FCRA directly, the use of “alternative data” in lending determinations continues to grow in sophistication and pervasiveness. Regulators should grant financial institutions the flexibility to innovate in this space. However, CUNA maintains that there should be no statutory or regulatory requirement to use “alternative data.” Instead, the decision to do so should be based entirely on the needs, resources, and risk appetites of individual financial institutions.

On behalf of America’s Credit Unions and their 110 million members, thank you for holding this important hearing.

Sincerely,



Jim Nussle
President & CEO