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The Honorable Maxine Waters
Chairman
Committee on Financial Services
House of Representatives
Washington, DC 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of America's Credit Unions thank you for holding the hearing, "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System." The Credit Union National Association (CUNA) represents America's Credit Unions and their 115 million members.

The credit reporting agencies (CRAs) play a critical role in the financial lives of Americans as the credit scores and reports they generate are influential metrics for many lending decisions. The Fair Credit Reporting Act (FCRA), which provides the legal framework for the credit reporting system, was passed by Congress in 1970 to ensure the integrity of an individual consumer's personal data maintained by the credit reporting agencies. CUNA supports the intent of the FCRA and its importance in ensuring consumers' financial information is handled and used in an appropriate and responsible manner.

Data Security

Data security by the CRAs remains a concern of CUNA members. The massive Equifax data breach has put more than 148 million American consumers at risk by exposing consumers' most personal information along with hundreds of thousands of credit card numbers. Stolen information includes personally identifiable information (PII), including Social Security numbers, birth dates, driver's license numbers and payment card data including credit and debit card number.

This breach has harmed credit unions and consumers and will continue to do so. The massive number of records possessed by CRAs and other entities highlights the need for comprehensive data security legislation by Congress as a way to ensure that American's data is protected from theft and misuses by criminal and other nefarious actors who come in possession of stolen records.

Access to Free Credit Scores

Over the last few years, many credit card issuers, financial institutions—including credit unions—and other companies have begun to voluntarily offer consumers free access to their credit score, providing consumers with an important tool to help manage their finances. CUNA supports robust financial education and other *voluntary* initiatives by companies and financial institutions to increase consumers' financial literacy.

Credit unions were established to help the members and communities they serve. Their non-profit, member-owned, cooperative structure puts them on the front lines of financial empowerment at all stages of life. Credit unions invest heavily in financial education, and have conducted countless educational sessions, from educating students in the classroom to adults at the local credit union branch. Some credit unions are even embedded in high schools and universities, offering a full spectrum of financial resources and tools for young people just starting their financial lives. Many credit unions have one or more certified financial

counselors on staff, and credit unions have provided millions of Americans with formal and informal financial counseling. When it comes to financial capability, credit unions truly are a smarter choice for American families to obtain the financial knowledge and tools necessary to succeed.

CUNA supports and encourages efforts to bolster the financial education of consumers, including through easy access to credit scores. However, we urge Congress and regulatory agencies to provide financial institutions with the support, including regulatory guidance as needed, intended to achieve this goal but to not go so far as to prescribe or mandate the establishment of any specific programs or services. As noted above, many entities, including credit unions, choose to voluntarily provide free credit scores to their consumers and members and we applaud their choice to do so, but also stress that doing so may not be feasible for others.

Alternative Data

In addition, while unrelated to the FCRA directly, the use of “alternative data” in lending determinations continues to grow in sophistication and pervasiveness. Congress and 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.

Regulatory Solutions

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. Credit unions have developed a strong reputation for providing responsible credit to their members and engaging in thorough and effective 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 addition to considering statutory changes, Congress should encourage the Consumer Financial Protection Bureau (CFPB) and Federal Trade Commission (FTC) to thoroughly examine and update the regulatory framework implementing the FCRA. Specifically, the CFPB 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.

Legislative Solutions

Credit unions, as furnishers of information to the CRAs, take their compliance responsibilities seriously and strive to develop and implement appropriate policies and procedures, train all employees and management on the approved policies and procedures, identify areas of increased risk, and promptly and completely

resolve any issues that arise. However, the FCRA should be examined for necessary updates and modernized to promote more clarity and flexibility for furnishers of information operating in good faith.

For example, 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 growing issue, Congress should explore the potential for modernizing the FCRA to include reasonable limitations on legal recoveries.

Conclusion

On behalf of America's Credit Unions and their 115 million members, thank you for holding this important hearing.

Sincerely,



Jim Nussle
President & CEO