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Written Testimony of Paul Wohkittel
Before the
U.S. House of Representatives – Committee on Financial Services
Subcommittee on Financial Institutions and Consumer Credit
Fair Credit Reporting Act:
How it Functions for Consumers and the Economy
June 4, 2003

I am Paul Wohkittel, President of Lenders' Credit Services in Baltimore, MD and the Legislative/GSE Chairman and a Director of the National Credit Reporting Association (NCRA). On behalf of NCRA, I want to thank you for inviting me to participate in today's hearing.

INTRODUCTION

The National Credit Reporting Association, on whose behalf I appear today, is a non-profit trade association representing the consumer reporting industry and specifically "reseller" firms specializing in mortgage reporting, employment screening, and tenant verifications. There are approximately 300 such credit-reporting agencies in the United States that specialize in mortgage credit reports. NCRA's more than 125 members provide in excess of 25,000,000 credit reports annually to the mortgage industry according to specifications required by the U.S. Department of Housing and Urban Development (HUD), Fannie Mae and Freddie Mac for mortgage loan underwriting. Due to the requirements of the mandatory use of all three of the repository files[1], firms like those of the membership of NCRA handle almost 100 percent of the credit reports for the mortgage loans purchased by Fannie Mae or insured by HUD.

While we believe that the U.S. credit reporting system, in a macro sense, is the best such system in the world, we also believe that it can be improved to better serve both consumers and lenders. I say this from experience, as I have attended and presented at conferences in Central Asia and Eastern Europe and have knowledge of the systems of different countries.[2] I currently am involved in constructing a credit bureau in Kazakhstan and expect to begin a similar undertaking in Ukraine in September of this year. In these projects I am afforded the opportunity to incorporate the best aspects of our system and the Fair Credit Reporting Act. I also am able to incorporate those modifications that we know, based on experience, will make this superior system even better.

THE GROWING IMPORTANCE OF CREDIT REPORTS

NCRA commends this Subcommittee for holding these hearings and for conducting a broad-based review of the credit reporting industry. The effectiveness of this industry is critical to the entire economy. Today, consumer access to credit, housing, insurance, basic utility services, and even employment increasingly is determined by centralized records of credit history and

[1] The three national credit repositories are Trans Union -Chicago, IL;, Equifax – Atlanta GA;, and Experian, Orange CA.
[2] Central Asian Credit Bureau Conference: January 29-31, 2003 Almaty, Kazakhstan
Presentation: Mortgage Credit Reporting Agencies and Their Relationship to the Credit Bureaus
Ukrainian Card 2003 Conference: April 22-25, 2003 Odessa, Ukraine
Presentation: Consumer Reporting Agencies and the Mortgage Market

automated interpretations of those records. Computer models now play the central role in determining whether to extend or deny credit to consumers. These models produce numerical credit scores that function as a shorthand version of an applicant's credit history to facilitate quick credit assessments.

The automated quantification of the information in credit reports has not simply been used to decide whether or not to extend credit, but also to set prices and terms for mortgages and other consumer credit. In certain cases, even very small differences in scores can result in substantially higher interest rates, and less favorable terms on new loans. Lenders also review credit histories and/or credit scores to evaluate existing credit accounts, and use the information when deciding to change credit limits, interest rates or other terms on those accounts.

In addition to lenders, potential landlords and employers may review credit histories and/or credit scores. Landlords may do so to determine if potential tenants are likely to pay their rent in a timely manner. Employers may review this information during a hiring process, especially for positions where employees are responsible for handling large sums of money. Utility providers, home telephone and cell phone service providers also may request a credit report or credit score to help determine whether to offer service to a consumer.

Recently, insurance companies have started using credit scores and similar insurance scores (derived from the same credit histories) when underwriting consumer applications for new insurance and renewals of existing policies. Credit information has been used as a basis to raise premiums, deny coverage for new customers, and deny renewals of existing customers – even in the absence of other risk factors, such as moving violations or accidents.

Clearly, a consumer's credit record and corresponding credit score can determine access and pricing for the most fundamental financial and consumer services. For this reason, it is critically important that the credit reporting system be adequately structured to fairly and efficiently accommodate the needs of lenders while offering solid and strong protections.

THE ROLE OF "RESELLERS"

Like other members of NCRA, Lenders' Credit Services is a credit-reporting agency that provides specialized mortgage credit reports and is referred to as "Reseller" in the Fair Credit Reporting Act. Unlike the three main repositories, resellers do not gather and maintain a database of credit information on consumers. Instead, on behalf of our client, typically a mortgage lender, we purchase consumer files and create specialized, hybrid reports with the data and resell these specialty reports.

For the mortgage process, NCRA member reports contain the data of all three of the main credit repositories, merged into one report. Often times, this report also contains information we have obtained form other sources not found in the three national repositories' databases or new information that has been updated or corrected from that of the original repository data[3]. In short, while the primary function of the repositories is to collect and maintain consumer credit data, the

[3] For example, information typically requested by a mortgage lender that is not found in a consumer's existing file with a repository is credit information from landlords and small creditors that do not have a sufficient number of accounts for the repositories to accept their data. Common types of corrections, updates and alteration that resellers make to the raw repository file include disputed late payments, collections, and public records, separating files mixed between generations, i.e. Jr./Sr. or common names, updating recent payments, and closing mortgage loan accounts that have been transferred or sold.

primary function of a reseller is to research and amend the data and provide enhanced customer service to lenders and borrowers alike.

The services of NCRA member firms are utilized because we are highly specialized agents in the credit reporting industry with the responsibility to assure the accuracy of the credit reports for the benefit of lenders and, importantly, for the protection of consumers. Last year, NCRA and the Consumer Federation of America[4] analyzed the credit scores of more than 500,000 consumers and extensively reviewed the files of more than 1,700 individuals maintained by the three major credit repositories. This review revealed the irregularities of data between the national repositories and found that the average American consumer with a credit history has a greater than 40 point variance between their high and low credit score[5].

An excellent illustration of the valuable service we perform for consumers is the recent introduction of Credit Re-Scoring.[6] With the growing popularity of "automated underwriting systems" that are driven to a high degree by risk-based scoring, consumers can be denied credit outright or forced into higher-than-deserved interest rates if inaccuracies exist in their credit files. The result can be tens of thousands of dollars in excess interest paid over the life of the loan[7]. Our staff fully analyzes the entire credit report and if inaccuracies exist, expediently corrects them, in conjunction with the repositories, to generate a new and accurate score. My staff receives letters, cards, and tokens of appreciation from consumers for helping correct files that have historically troubled them so they can obtain a loan for a lower rate than they thought possible.

RECOMMENDATIONS FOR IMPROVING THE CREDIT REPORTING SYSTEM

Clearly, the debate over the reauthorization of the Fair Credit Reporting Act has been dominated by the debate over reauthorizing the expiring preemption provisions which prevent states from imposing limits on the reporting and sharing of consumer credit histories. While NCRA appreciates the importance of this issue, we also believe that other issues warrant the attention of this Subcommittee and the entire Congress as you move forward.

First, NCRA supports a continued national standard in terms of the reporting and sharing of consumer credit histories. While we fully appreciate the consumer protection arguments being made in favor of allowing states to impose stricter standards and limitations, we have concluded

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[4] "Credit Score Accuracy and Implications for Consumers," December 17, 2002, published by the Consumer Federation of American and the National Credit Reporting Association, Inc.
http://www.ncrainc.org/documents/CFA%20NCRA%20Credit%20Score%20Report.pdf
This report was submitted to the Financial Services Committee for the record by Rep. Ruben Hinojas during a May 8, 2003 hearing.

[5] The CFA/NCRA study, conducted during the summer of 2002, blindly reviewed 502,623 randomly selected three repository merged credit reports that were pulled for mortgage transactions between 2000 and 2002. The credit scores from each of the respective repository files was recorded for comparative analysis in phase two of the study which found that: 24 percent of the consumer files (105,324) had a variance of less than 20 points between their high and low credit score; 29 percent (129,284) had a range of greater than 50 points; and 4 percent (17,626) had a differential greater than 100 points between their high and low scores. The average (mean) range between the high and low credit score found in this phase of the study was 41 points. Page 24-25, Sec. 6 B-1 Credit Score Accuracy and Implication for Consumers

[6] Credit Re-Scoring was created as an answer to the demanding requirements of automated underwriting systems in the mortgage industry and is used to update and correct data discrepancies in an expedited fashion and the credit report is re-accessed from the credit repository to obtain a new credit score based on the corrected/updated data.

[7] Interest on a loan with an "A-" designation, the designation for sub prime loans just below prime cutoff, can be up to 2.25 percent higher than prime loans. On a 30 year, $100,000 mortgage, a borrower who is incorrectly placed into a 10 percent "A-" loan would pay a difference of $161.15 per month or $58,017.56 in interest payments over the life of the loan. This represents $215,925.77 in interest, compared to $157,908.41 if that borrower obtained a 7.75 percent prime loan. Thus, the consumer experiences a potential overcharge greater than half the cost of the principal amount of the actual loan.

that a uniform national standard is necessary to maintain the levels of efficiency consumers enjoy when purchasing a product or service on credit. It is NCRA's opinion that a credit reporting system fractured by a variety of state laws, regardless of how well intended, not only would harm the credit reporting industry, but the credit and banking system and our economy as a whole.

Second, NCRA supports modifications or fine-tuning of the FCRA to allow it to address the needs of all parties concerned in the credit reporting process. Specifically, NCRA supports the following enhancements:

- Strengthen the Responsibilities of Furnishers of Information Section:

  Industry experts agree that an unacceptable percentage of discrepancies in consumer files are the result of creditor error. While inaccuracies are unavoidable, especially in the administration of some 200 million files, NCRA believes that a significant reason for the source of these errors on the part of creditors is that the current FCRA does not address the problem adequately. The current law does not provide significant creditor legal responsibility. Section 623, outlining the responsibilities of furnishers should be revisited. The responsibilities and duties should be re-written to a higher and stricter standard. In addition, penalties and consumer remedies should be made more prominent.

- Provide better disclosure of the original qualifying report when any adverse lending actions exist:

  The current required method of providing names and phone numbers of the credit reporting agency, along with short, non-descriptive, and sometimes cryptic reasons for denial should be changed to include a full copy of the entire credit report used in the decision making process, along with a letter detailing the steps to dispute any inaccuracies contained in the report. By seeing a copy of the entire report, a consumer can make a more qualified decision, when evaluating the accuracy of the report, of whether or not to spend the time and effort to dispute items with the reporting agencies and the reporting creditors.

- Enhance the definition section of the FCRA pertaining to Consumer Reporting Agencies to better define and delineate Repositories and Intermediary Agencies (Resellers) and their responsibilities:

  Because a more developed role of Intermediary Consumer Reporting Agencies (Resellers) will significantly assist consumers in researching, disputing, and maintaining accuracy of their personal credit files, section 603 of the FCRA should be re-written to include a separate definition for "Intermediary Consumer Reporting Agencies," those agencies that do not physically maintain the data housed in the repositories' databases but resell both data and services essential in correcting data in a efficient and expedient manner. More specific duties, definitions, responsibilities, and accountabilities would be included.

- Increase the availability of consumer assistance from Intermediary Agencies:

  In the adverse action letter, include a disclosure offering consumers the option to: a) contact the repository that furnished the report and include their rights for disputing any inaccurate information under the FCRA or b) contact an intermediary credit reporting agency for assistance in the correction process for a nominal service fee.

These enhancements to the FCRA would help update the credit reporting system to address issues that have arisen since the 1996 FCRA reform. Issues of identity theft, increased reliance on risk-based, score-driven lending and insurance underwriting, and predatory lending have reached much greater levels than that which was the case in 1996 and the recommendations offered here may be a means of offering both consumers and users of credit data an improved system.

CONCLUSION

In closing, on behalf of NCRA, Lenders' Credit Services, and resellers nationwide, I would like to thank you for inviting us to this hearing and to assure you that we stand ready to assist, in a unique way that only a reseller who compares and contrasts the data within each of the three repositories on a daily basis can, to address and meet the challenges posed to the greatest credit reporting system in the world. We look forward to helping to update the FCRA to allow this system to maintain its place at the cutting edge of powering our nation's economy.