



STATEMENT OF

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WASHINGTON, D.C.

BEFORE THE

Committee on Financial Services

Subcommittee on Financial Institutions and Consumer Credit

United States House of Representatives

ON

“An Overview of the Credit Reporting System”

September 10, 2014

Chairman Moore Capito, Ranking Member Meeks and members of the Subcommittee, thank you for this opportunity to appear before you. For the record my name is Stuart Pratt, president and CEO of the Consumer Data Industry Association (CDIA).

CDIA is an international trade association of more than 130 corporate members. Its mission is to enable consumers, media, legislators and regulators to understand the benefits of the responsible use of consumer data which creates opportunities for consumers and the economy. CDIA members provide businesses with the data and analytical tools necessary to manage risk. They help ensure fair and safe transactions for consumers, facilitate competition and expand consumers' access to a market which is innovative and focused on their needs. CDIA member products are used in more than nine billion transactions each year.

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

### **Credit Reports Benefit Consumers and the Economy**

Consumer Financial Protection Bureau Director Richard Cordray stated the following about credit reporting during a July 16, 2012 field hearing:

*“Credit reporting is an important element in promoting access to credit that a consumer can afford to repay. Without credit reporting, consumers would not be able to get credit except from those who have already had direct experience with them, for example from local merchants who know whether or not they regularly pay their bills. This was the case fifty or a hundred years ago with “store credit,” or when consumers really only had the option of going to their local bank. But now, consumers can instantly access credit because lenders everywhere can look to credit scores to provide a uniform benchmark for assessing risk. Conversely, credit reporting may also help reinforce consumer incentives to avoid falling behind on payments, or not paying back loans at all. After all, many consumers are aware that they should make efforts to build solid credit.”*

In its 2011 publication of Credit Reporting Principles the World Bank observed:

*“Credit reporting systems are very important in today’s financial system. Creditors consider information held by these systems as a primary factor when they evaluate the creditworthiness of data subjects and monitor the credit circumstances of consumers. This information flow enables credit markets to function more efficiently and at lower cost than would otherwise be possible.”*

Congressional findings in the Fair Credit Reporting Act reinforce the positive contribution of credit reporting to consumers and state that “consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.”

Ultimately credit reports benefit consumers most of all. Our members’ systems tell the story of consumers’ good choices and hard work. Credit reports speak for us as consumers when we apply for loans and lenders don’t know who we are or how we’ve paid our bills in the past. Credit reports replace human bias and assumptions with a foundation of facts. They help ensure that we are treated fairly.

Our members are also leading decision sciences companies which help American businesses to manage risk and to prevent fraud. Decision sciences teams benefit from a competitive, private-sector, nationwide, full-file, credit reporting industry. They are comprised of statisticians, software architects and programmers, mathematicians and experts in the field of risk management. These teams work through terabytes of depersonalized data during the design of a new credit score, fraud prevention product or the update of an existing one. Credit scores, developed by decision sciences teams, are essential to how lenders manage risk across the entire account lifecycle (application approval, portfolio-level risk assessment, ongoing account-by-account monitoring and even identification of distressed accounts and likelihood of recovery of losses). A credit score rank orders a population of consumers in terms of the risk they pose to a lender. Credit scores are not data stored in a consumer’s credit report. Fraud prevention products are also used across the account lifecycle and they frontline protection for consumers from the risks of identity theft and other forms of fraud. Credit scores and fraud prevention systems are strategically important intellectual property of the companies which invest tens of millions of dollars in research and development to create them.

Our members truly do “empower economic opportunity” for consumers and American businesses. They focus on consumers first, on ensuring fairness for them in the marketplace and on the accuracy and precisions of the data in their systems and the products they produce.

### **What’s In a Credit Report?**

Before we provide testimony on particular issues identified by the Committee, we thought it would be helpful to discuss what is and isn’t in a “credit report.” The term “credit report” is not defined by the Fair Credit Reporting Act (15 U.S.C. §1681 *et. seq.*) The FCRA defines the term “consumer report” and the traditional credit reports produced by nationwide consumer reporting agencies meet this definition. Credit reports include:

- Identifying Information – Name (first, last, middle), current and previous addresses, Social Security Number, date of birth.
- Credit History – History of managing various loans issued by retailers, banks, finance companies, mortgage companies and other types of lenders.
- Public Records – Judgments, bankruptcies, tax liens.
- Accounts Placed with a Collection Agency – Accounts reported by third-party debt collectors who attempt to collect delinquent debts owed to a service provider or lender.
- Inquiries – A record of all who have a permissible purpose under the law and have access to a consumer’s report.

Credit reports do not contain information on an individual’s medical condition, race, color, religion, marital status or national origin. It is important to note that our US credit reporting systems are full-file and thus they include both positive and negative payment history on a consumer. Studies show that full-file credit reporting is inherently fairer for consumers because it ensures that there is a clear record of not just missed payments but all of their on-time payments. This means greater access to credit at rates consumers can afford.

## **The Role of Data Furnishers and Accuracy**

More than 10,000 data sources report more than 3 billion updates of data to nationwide consumer credit reporting agencies. As CFPB Director Cordray stated during a July 26, 2012 field hearing:

*“First, our oversight of the credit reporting companies will help us make sure that the information provided to them is itself reliable. Lenders and others who furnish information to the credit reporting companies are legally required to have policies in place about the accuracy and integrity of the information they report – which includes identifying consumers accurately, correctly recounting their actual payment history, and keeping their information and recordkeeping in order. Otherwise, their sloppy work becomes the true source of harm to the consumer’s overall creditworthiness”.*

Our members have procedures in place for both on-boarding new data furnishers and monitoring the data reported by the current community of data furnishers. This ongoing partnership has resulted in the Federal Trade Commission finding that 98% of credit reports do not contain a material error that would affect the price a consumer will pay in the marketplace.<sup>1</sup> We discuss below some of these practices:

*New data furnishers* – all of our members have specialized staff, policies and procedural systems in place to evaluate each new data furnisher. 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.

The CFPB’s 2012 report, “Key Dimensions and Processes in the U.S. Credit Reporting System: A review of how the nation’s largest credit bureaus manage consumer data”, provides additional details on our members’ efforts at Section 4.1 on pages 18-19.

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<sup>1</sup> The FTC also found that 88% of the potential errors identified by consumers result from the reporting practices of their lenders. Many possible errors were in fact disputes regarding balances and thus are not likely errors at all, but rather timing issues in terms of a bill payment submitted by a consumer and the subsequent reporting of a new balance to the credit bureaus.

*Ongoing oversight of furnishers* – Our members employ a variety of practices; some of these are listed below:

- Producing reports for data furnishers which outline data reporting problems, including errors in loading data and data which is not loaded. This reporting process ensures data furnishers are receiving feedback regarding the quality of their data furnishing practices.
- Cross-referencing data in certain fields to look for logical inconsistencies are 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.
- Reviewing incoming data for consistency with the Metro 2® data standard.

Beyond the extensive, individual corporate strategies for ensuring data quality, our members have undertaken industry-level strategies as well. Central to these efforts has been the development of a data reporting standard for all 10,000 data sources which contribute to our members’ 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. Consumer advocates appear to agree. The National Consumer Law Center, writing on behalf of a range of consumer groups emphasized this point when it stated in its letter to the Federal Reserve Board<sup>2</sup>:

*“However, the failure to report electronically or to use Metro2[®] creates even more inaccuracies.”*

CDIA’s Metro 2® Task Force is committed to supporting the efforts of lenders to properly report data regarding their customers using the Metro 2® data reporting format. These efforts include:

- a. Providing free online access to a “Credit Reporting Resource Guide” which is the comprehensive overview of the Metro2® Format and which is updated each year to account for data furnisher

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<sup>2</sup> Comments of the National Consumer Law Center, ANPR: Furnisher Accuracy Guidelines and Procedures Pursuant to Section 312 of the Fair and Accurate Credit Transactions Act, Pp. 16.

questions, changes in law, regulatory inquiries, and government-sponsored programs.

- b. Providing specific reporting guidance for certain types of furnishers to encourage proper use of the format. Target audiences include collection agencies, agencies which purchase distressed debt, all parties which report data on student loans, child support enforcement agencies and utility companies.
- c. Administering webinar-based training for data furnishers overall and for specific sectors in particular.
- d. Running annual multiple in-person multi-day workshops with customized syllabi based on reporting trends over the course of the year. These workshops have been sold out in each of the last two years.
- e. Launching a new 2014 online Metro 2® eLearning System which serves as both an ongoing online resource for data furnishers and a certificate-level remote-learning training tool for data furnisher data quality teams.
- f. Launching a new remote-learning Fair Credit Reporting Act training system focused on the duties of data furnishers.

Beyond the accounting above, the CFPB's 2012 report<sup>3</sup> also discusses oversight of ongoing data furnishing at Section 4.2, page 19 and an outline of the Metro 2® Format (Section 3.1.2, page 15 and following).

Our members' efforts to audit incoming data and to work with both new and current data furnishers are well-documented. However, the Congress recognized that data furnishers have to have duties to ensure that accuracy of what they report which is why, in 1996, the FCRA was amended to create an accuracy duty for data furnishers and again in 2003, the Congress enacted new FCRA requirements on data furnishers via the issuance of regulations regarding the "accuracy and integrity" of information furnished to consumer reporting agencies.

## **Consumers and Credit Reports**

A consumer's credit history starts with the very first relationship a consumer has with a lender. It may be when a parent adds a son or daughter as an authorized signatory on a credit card or when a young adult makes

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<sup>3</sup> "Key Dimensions and Processes in the U.S. Credit Reporting System: [http://files.consumerfinance.gov/f/201212\\_cfpb\\_credit-reporting-white-paper.pdf](http://files.consumerfinance.gov/f/201212_cfpb_credit-reporting-white-paper.pdf)

application for his or her very first loan. Ensuring that consumers understand how lenders consider their management of credit is critical and certain fundamental principles are consistently true over time:

- Pay your bills on time.
- Don't run up your credit cards to their limits.

Never before in the history of our country has there been a greater degree of transparency when it comes to the information available to enable consumers to understand consumer credit reports and their rights under the FCRA. In particular, CDIA applauds its members for their market solutions which make available to consumers unlimited access to credit reports, credit scores, as well as providing additional information which improves a consumer's financial literacy. These market solutions, for example, push alerts to consumer's smart phones when data has changed on their report and also warn consumers when there's a risk of identity theft.

Under the Fair Credit Reporting Act, consumers also have a right to an annual free credit file disclosure from each of the nationwide consumer credit reporting agencies: Equifax, Experian and TransUnion. We estimate that more than 15 million consumers view at least one of their reports each year and an average of more than 30 million disclosures are issued annually. Since December of 2004, hundreds of millions of disclosures have been issued to consumers.

For some years, consumer advocates have been measuring the knowledge consumers have regarding their credit reports and how credit scores used by lenders analyze data. In particular VantageScore and the Consumer Federation of America have partnered on a project to reach consumers and measure their knowledge. The trends identified through this effort are very encouraging. Consider the following excerpts drawn from the CFA News Release:

*"A large majority of consumers now know many of the most important facts about credit scores, for example:*

- *Mortgage lenders and credit card issuers use credit scores (94% and 90% correct respectively).*

- *Many other service providers also use these scores -- landlords, home insurers, and cell phone companies (73%, 71%, and 66% correct respectively).*
- *Missed payments, personal bankruptcy, and high credit card balances influence scores (94%, 90%, and 89% correct respectively).*
- *The three main credit bureaus -- Experian, Equifax, and TransUnion -- collect the information on which credit scores are frequently based (75% correct).*
- *Consumers have more than one generic score (78% correct).*
- *Making all loan payments on time, keeping credit card balances under 25% of credit limits, and not opening several credit card accounts at the same time help raise a low score or maintain a high one (97%, 85%, and 83% correct respectively).*
- *It is very important for consumers to check the accuracy of their credit reports at the three main credit bureaus (82% correct).*

*Somewhat surprising was the fact that most consumers understand new, and fairly complicated, consumer protections regarding credit score disclosures. When asked when lenders who use generic credit scores are required to inform borrowers of these scores, large majorities correctly identified three key conditions -- after a consumer applies for a mortgage (80% correct), whenever a consumer is turned down for a loan (79% correct), and on all consumer loans when a consumer does not receive the best terms including the lowest interest rate available (70% correct).*

*'Increases in consumer knowledge probably reflect in part the increased public attention given to credit scores because of the new protections,' noted CFA's Brobeck. 'The improvements may also be related to increased efforts of financial educators, including our [creditscorequiz.org](http://creditscorequiz.org), to inform consumers about credit reports and scores,' he added.'"*

Our members are encouraged by the progress made. These data argue against the perception reported by some journalists and advocates that consumers are simply confused and unable to understand the credit reporting system. It's our view that journalists and advocates would serve consumers better by setting aside the rhetoric of confusion in favor of encouraging consumers to act on their rights and to learn how the credit

reporting system creates a marketplace that is fairer and more focused on their needs.

## **The Dispute Resolution Process for Consumers**

A consumer's right to dispute information in his or her credit report is very clear under the FCRA.

Below is an explanation of those rights prepared by the Federal Trade Commission:

*You have the right to know what is in your file. You may request and obtain all the information about you in the files of a consumer reporting agency (your "file disclosure"). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:*

- *a person has taken adverse action against you because of information in your credit report;*
- *you are the victim of identity theft and place a fraud alert in your file;*
- *your file contains inaccurate information as a result of fraud;*
- *you are on public assistance;*
- *you are unemployed but expect to apply for employment within 60 days.*

*In addition, [since] September 2005 all consumers [have been] entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.ftc.gov/credit](http://www.ftc.gov/credit) for additional information.*

*You have the right to dispute incomplete or inaccurate information. If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See [www.ftc.gov/credit](http://www.ftc.gov/credit) for an explanation of dispute procedures.*

*Consumer reporting agencies must correct or delete inaccurate, incomplete, or*

*unverifiable information. Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.*

The staff and systems used by our members to handle consumer requests for reinvestigations of data reported to them are first-class and this is not merely an opinion. The PERC data quality study discussed in this testimony measured consumer satisfaction with the reinvestigation process. Fully 95% of consumers were satisfied with the results. Clearly both the credit bureaus and consumers' lenders are doing their jobs well and are serving consumers effectively. This fact offers a compelling rebuttal to the unfounded and wholly unsupported accusations offered by consumer advocates that our members' systems fail to meet consumer expectations.

Further indication of our members' success in meeting consumers' needs can be found in a 2008 report to Congress regarding complaints submitted to the Federal Trade Commission. Note in the excerpt below that consumers appeared to be complaining to the FTC concurrent with the submission of a dispute directly to a consumer credit reporting agency. More than 90% of the disputes were resolved when submitted directly to the CRA, a percentage that is very consistent with the findings of PERC

*The data indicate that a significant number of disputes were resolved in the consumer's favor (i.e., the disputed information was either removed from the file or modified as requested). The data further indicate, however, that in most cases, the favorable resolutions took place as part of the normal dispute process, and not as a result of the referral program. Specifically, the CRAs' reports show that over 90 percent of disputes that were resolved "as requested by the consumer" were resolved before the CRA processed the referral from the Commission.<sup>4</sup>*

It is also important to note that in 2003 consumers were given the right to dispute information furnished

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<sup>4</sup> See page 5 of the FTC Report to Congress Submitted on December 29, 2003: <http://www.ftc.gov/os/2008/12/P044807fcracmpt.pdf>

to a consumer reporting agency directly with the furnisher of the data (e.g., lender, etc.). A March 2012 FTC report on a survey of consumers indicated that 46% chose to dispute an item of information directly with the data furnisher rather than with a consumer credit reporting agency. It is our view that consumers will continue to grow in their understanding of this right and will more often dispute with the data furnisher since their lender is the true source of their dispute and is in the best position to resolve it.

Though the data discussed above confirms an error-correction system that is working very well for consumers, some consumer advocacy organizations have mischaracterized a key technology platform, called eOscar®, which contributes materially to this success. This platform connects the more than 10,000 data furnishers who supply data to the nationwide consumer credit reporting agencies so that disputes can be submitted quickly and consistently.

The FCRA requires nationwide credit bureaus to maintain an “automated reinvestigation system.”<sup>5</sup> The FCRA also requires nationwide credit bureaus to transmit a consumer’s dispute to the lender/data source within five business days.<sup>6</sup> This requirement of law makes sense when you consider that the FTC’s credit report accuracy study found that 88% of the possible errors consumers identified in their credit reports were about how collection agencies and lenders reported data to credit bureaus (and not how credit bureaus loaded these data).<sup>7</sup>

In the interest of serving consumers, the industry built an automated system prior to law requiring it and it is a great success. While law requires disputes to be processed in no more than 30 days, this platform shortens the time frame to an average of 14 days and recent studies show that 95% of consumers are satisfied with the results.

Codes are used to transmit the consumer’s dispute to a lender. Some have misunderstood these codes

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<sup>5</sup> 15 U.S.C. § 1681i(a)(5)(D)

<sup>6</sup> 15 U.S.C. § 1681i(a)(2)(A)

<sup>7</sup> Note that a high percentage of possible errors identified by consumers were about balances. This suggests that consumers may be disputing an accurate balance reported by their lender, but the balance has not yet been updated as a result of a recent payment by the consumer. Consumer’s lenders work hard to ensure the data they report is accurate and benefits their customer in future transactions.

to mean that they are a shortcut and result in an abridged version of the consumer's dispute being sent to the lender. This is not the case. Each code comes with a full and complete meaning that is also part of the system. Consider the following example:

*E1 - "Claims paid original creditor before collection started or paid before charge-off. Verify account status, payment rating, current balance, amount past due, pay history".*

This is a typical example of a code that is unambiguous and which encourages a thorough and complete investigation of all data regarding a consumer's account. Lenders and collection agencies take these directions seriously and conduct robust reinvestigations.

Finally, though the current coding system is working well in 2013 CDIA's members voluntarily launched a new version of the eOscar® system. With the new version of eOscar®, the documents that consumers submit to the nationwide consumer reporting agencies in support of their disputes will be made available to lenders investigating the dispute. The new eOscar® system requires the lender to look at the supporting document(s) before completing its investigation.<sup>8</sup> Initially, this change to eOscar® only applied to supporting documentation sent by mail. By the end of 2013, CDIA members had redesigned their online dispute portals so that consumers could upload validating documents.

CDIA's members remain committed to continuing to improve systems to serve consumers while also preserving the integrity of data in their databases which is threatened by fraudulent credit repair activities.

### **Credit Repair Scams**

As discussed above, it is good news that consumers' knowledge of credit reports and how scores analyze credit report data is improving. It is also good news that the systems for submitting a dispute are

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<sup>8</sup> CDIA's members were proactive and implemented this design feature prior to the CFPB's recent bulletin (CFPB Bulletin 2013-09) which states *"The furnisher, in turn, must 'conduct an investigation with respect to the disputed information,' 'review all relevant information' provided by the CRA, and respond appropriately based on the result of the investigation."*

working well for consumers. However, it is critical that consumers remain vigilant and do not fall prey to fraudulent credit repair schemes. Fraudulent credit repair agencies have a business model built around the premise of seeking to have accurate, predictive data deleted from a consumer's credit report and taking consumers' hard-earned money to do something that consumers can do for themselves or in some cases doing nothing at all. The quote from an October 13, 2011 FTC press release regarding a public investigation of a credit repair operator is illustrative of the problem and challenge our members face:

*“The FTC alleges that the defendants made false statements to credit bureaus disputing the accuracy of negative information in consumers' credit reports. In letters to credit bureaus, which XXX did not show to consumers, the firm typically disputed all negative information in credit reports, regardless of the information's accuracy. XXX continued to send these deceptive dispute letters to credit bureaus, even after receiving detailed billing histories verifying the accuracy of the information, or signed contracts from creditors proving the validity of the accounts.*

**The complaint alleges that XXX misrepresented to consumers that federal law allows the company to dispute accurate credit report information,** and that credit bureaus must remove information from credit reports unless they can prove it is accurate. In the company's words, credit bureaus must “prove it or remove it.” XXX charged a retainer fee of up to \$2,000 before providing any service, and falsely told consumers that Texas law allows credit repair organizations that are registered and bonded to charge an advance fee.”

CDIA applauds the actions of the Federal Trade Commission and state attorneys general to protect consumers through their enforcement of the Credit Repair Organizations Act against companies engaged in fraudulent and deceptive practices. These enforcement efforts must continue. But the CFA survey of consumers speaks clearly to the need to also continue to educate consumers. Consider the following finding:

*“Over half (51%) [of consumers] incorrectly believe that credit repair companies are "always" or "usually"*

*helpful in correcting credit report errors and improving scores. Experts agree that credit repair companies often overpromise, charge high prices, and perform services that consumers could do themselves.”*

Fraudulent credit repair activities remain a problem for consumers, for credit bureaus and for all data furnishers (credit unions, community banks, etc.). Our members estimate that as much as 43% of incoming mail is tied to credit repair schemes that take money from unsuspecting consumers, distract from processing valid disputes and tie up data furnisher resources leading some to give up and delete accurate, predictive data.

### **Repeated Studies Confirm that Credit Reports are Accurate**

The accuracy of credit reports is at the center of our members’ values and there is ample empirical evidence that their efforts are a success. Consider the findings of the following studies/reports:

In 2004 the Federal Reserve Board published a study of 300,000 credit reports and stated that “...the proportion of individuals affected by any single type of data problem appears to be small...”

In February of 2013 the Federal Trade Commission released its comprehensive [study](#) of the accuracy of credit reports (see CDIA’s full news release in Appendix I of this testimony). It focused on errors in reports that could adversely impact the price a consumer would pay. These errors were defined as “material errors.” The study found that 98% of credit reports do not contain a material error.

Further, in December 2012, the Consumer Financial Protection Bureau (CFPB) published a white [paper](#) on credit reporting stated the following: “...the number of credit-active consumers who disputed one or more items with an NCRA [nationwide credit bureau] in 2011 ranges from 1.3% to 3.9%.”

The federal government reports continue a consistent narrative about the integrity of the data contained in credit reports. In 2011, the Political and Economic Research Council [study](#) found that only 1 percent of credit reports contained a material error.

While these studies confirm that our members and data furnishers are extraordinarily successful in maintaining accurate data, CDIA’s members are committed to continuing their internal quality assurance efforts, dialogue with regulators, dialogue with lenders and learning from reports such as FTC’s latest report on

accuracy.

### **CDIA's Members are Proactive on Behalf of Consumers**

CDIA's members have a deep history of being proactive on behalf of consumers and doing so without the imposition of new duties under law. Consider the following historical examples:

- CDIA's members established the first set of voluntary practices which became the framework for the enactment of the FCRA in 1970.
- CDIA's members again implemented voluntary practices in the early 1990s which became the framing concepts for the 1996 amendments to the FCRA.
- The Metro 2® Format was voluntarily developed by CDIA and its members to improve the precision and consistency of the 3 billion updates of data reported by 10,000 data furnishers.
- Without a duty under law, CDIA's members pioneered the first online system (eOscar®) for processing disputes which solved the problem of consumers having to call multiple credit bureaus to seek the correction of data reported by their lender.
- Fraud-alert systems were developed voluntarily by CDIA members. These alerts protect consumers against identity theft.
- A voluntary fraud-alert data exchange was subsequently developed so consumers would have a one-stop shop for placing these alerts on their credit reports.
- Another voluntary initiative led to consumers who placed fraud alerts being allowed to access a copy of their credit report free of charge.
- Giving consumers online access to their credit reports were voluntary systems investments made by CDIA's members.

Though, in some cases discussed elsewhere in this testimony, immediately below is a summary of recent voluntary actions:

- 2013 – An Improved eOscar® System - Nationwide credit bureaus launch a new version of the eOscar® system (the system through which consumer disputes are transmitted to data furnishers). With the new version of eOscar®, the documents that consumers submit to the CRAs in support of their disputes will be made available to lenders investigating the dispute. The new eOscar® system requires the lender to look at the supporting document(s) before completing its investigation. Initially, this change to eOscar® only applied to supporting documentation sent by mail. By the end of 2013, CDIA members had redesigned their online dispute portals so that consumers could upload validating documents online.
- 2014 – A New Metro 2® Remote-Learning Training Platform and Online Resource - CDIA launched a new online training resource for the Metro 2® Format (the format for the data submitted to the CRAs by the data furnisher). Appendix E to Part 222 of the Code of Federal Regulations states that data must be furnished in a standardized and clearly understandable form and manner. However, the Consumer Financial Protection Bureau (CFPB) conducted examinations of data furnishers and observed that “...deficiencies have resulted in failure to communicate appropriate and accurate account information to credit bureaus...” The CFBP further states that “employees did not have sufficient training or familiarity with the requirements of the FCRA to implement it properly.” The new eLearning system instituted by CDIA is an ongoing online resource for questions about Metro 2® and includes a certificate training component so that lenders can train their data furnishing teams. Further, CDIA has complemented this new Metro 2® training effort with a new FCRA data furnisher compliance training system that focuses on the law and regulations therein.
- 2013 – Encouraging Consumers to Access Free Reports – One academic who contributed to the FTC’s accuracy study observed in a one-on-one debrief with CDIA that getting consumers connected with their credit report disclosure would be one of the best ideas in which nationwide credit bureaus could invest. CDIA members acted and provided CDIA with a grant to support this effort. CDIA conducted

a Public Service Announcement (PSA) campaign to encourage consumers to obtain their free credit reports.

- 2013 – Free Reports Improving Consumer Knowledge and Experience - Nationwide credit bureaus redesigned [www.annualcreditreport.com](http://www.annualcreditreport.com). This redesign was based on several behavioral design labs housed at major universities. After testing a variety of possible designs, the new website for consumers to receive their annual three free credit reports is more effective both in terms of consumers' ability to complete requests for a free report and also in terms of accessing relevant information about their rights, etc. One measure of the success of this effort is measured by the 66% increase in the number of users who now choose to read newly-designed financial literacy information found on the site.

### **CDIA Views on Current Law and Policies**

*Improving the Quality of Data* – CDIA's members believe that Congress could help contribute to the quality of data in our members' systems (a clear benefit for consumers and the economy) by allowing them access to the Social Security Administration's database for purposes of validating SSNs and the person associated with an SSN. Data matching is based on every data element provided by lenders, and other service providers. Lenders work hard to gather accurate identifying information. However, most identifying information changes over time. Approximately 40 million consumers move each year, which means addresses change. Millions of last names change each year due to marriage and divorce. Consumers may use their full name on one application and their nickname on another. They may also unintentionally transpose digits in the SSN when completing an application. There are millions of attempts to perpetrate identity theft which can tie a consumer's SSN to a false identity in a lender's portfolio. With all of these changes, the SSN remains an important part of how data is matched. Giving our members a chance to cross-match our data with the SSA wouldn't be definitive (there is an error rate in the SSA's database), but it would improve our members' already robust quality assurance processes.

*Growing Problems with Aggressive Private Litigation/Class Actions* - Under the Fair Credit Reporting

Act, CDIA's members are subject to enforcement actions by the Consumer Financial Protection Bureau, the Federal Trade Commission, state attorneys general and consumers through private rights of action. This committee should know that the class action risks, which arise from the private rights of action in current law (tied to statutory damages), are, for some members, posing near-existential risks. This year CDIA's small-business errors and omissions insurance program provider hiked up premiums by 50% for 2015. They did this though more than 80% of our members in the program had been loss-free for more than four years and 95% of members had been loss free for at least two years. Our current provider also "fired" some members by refusing them coverage going forward. CDIA sought to compete the current provider's bid for E&O insurance with six other insurance companies. All six declined to bid on the business. Some members of the CDIA have even had to sue their E&O provider to force them to provide coverage under a current policy. Even the mere threat of a class action is causing insurers to refuse or cancel coverage.

CDIA recognizes and does not question the importance and necessity of giving consumers their own right to enforce the FCRA. However we believe congress should reevaluate the broad application of private rights of action, the inclusion of statutory damages and the uncapped awards for class actions, particularly in the context of the creation of the Consumer Financial Protection Bureau. In addition to its enforcement powers the CFPB has supervisory and examination powers over all CDIA's members who are larger participants and all members who may pose a risk to consumers. The CFPB also has the power to write rules under the FCRA, as well as to issue bulletins and non-public memorandums of understanding.

*Encourage FHFA to Support and Encourage GSE Efforts to Embrace Competition and Expand Opportunity for Consumers* – On August 29, 2014, the Federal Housing Finance Authority issued a propose rule regarding new enterprise housing goals.<sup>9</sup> It states that "[t]he housing goals include separate categories for single-family and multifamily mortgages on housing that is affordable to low-income and very low-income families..." Regardless of which of the three proposed approaches for measuring the enterprises' success in meeting established housing goals is used, FHFA could expand the universe of credit-qualified consumers now

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<sup>9</sup> [https://www.fhfa.gov/SupervisionRegulation/Rules/RuleDocuments/Enterprise\\_Goals\\_Proposed\\_Rule\\_8-29-2014.pdf](https://www.fhfa.gov/SupervisionRegulation/Rules/RuleDocuments/Enterprise_Goals_Proposed_Rule_8-29-2014.pdf)

by simply allowing the GSEs to invest in expanding the number of third-party-developed credit scores that may be used by primary-market lenders. Today the GSEs have created an unintended monopoly in terms of the credit score used for conforming mortgage loans because they have only approved one third-party credit score. VantageScore's product (VantageScore 3.0) is excluded and this disadvantages consumers, yet VantageScore 3.0 provides significant advantages for consumers and for lenders.<sup>10</sup> Most importantly, for consumers VantageScore 3.0 is essential because it is "[m]ore inclusive, scoring up to 35 million previously unscorable consumers." The GSEs are not permitted to make changes to their systems without FHFA's approval. Now is the time for FHFA to not merely establish new housing goals, but to embrace marketplace competition and indicate their strong support for the GSEs to validate and approve new third-party credit score models which can be used by primary-market lenders issuing conforming loans. Doing so expands opportunities for underserved consumers and at the same time improves loan quality.

On July 10, 2014, the Credit Builders Alliance<sup>11</sup>, a leading consumer-focused organization with deep expertise in the intersection between the financial services industry and consumers, hosted a symposium which focused on how new advances in alternative data are critical to the mission of helping unbanked and under-banked consumers build credit and enter mainstream financial services marketplace. Alternative data comes in many forms. CDIA's members are at the forefront of this movement and it is private investment which is expanding the data sets available for lenders to use as they reach new communities of consumers. These data ensure expanded fairness and access. We believe, like opening the door to new credit scoring models, FHFA should also allow and in fact encourage the GSEs to expand the types of alternative data which can be scored and used in automated underwriting (and not merely processed through manual underwriting).

*Exempt Credit Monitoring Services and Other Financial Literacy Products Which Help Consumers*

*Learn About and Protect Their Credit Standing From the Credit Repair Organizations Act –Previously in this*

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<sup>10</sup> <http://www.vantagescore.com/pdf/VS30-FactSheet.pdf>

<sup>11</sup> <http://creditbuildersalliance.org/>

testimony we discuss the serious problems posed by fraudulent credit repair operators. Below we discuss the misapplication of federal law to credit monitoring products which help expand a consumer's financial literacy.

#### The Credit Repair Organizations Act:

By the middle 1980s, states recognized the problem of fraudulent credit repair and enacted laws that established a variety of approaches to addressing their concerns with fraudulent acts. In 1996, Congress enacted the Credit Repair Organizations Act.<sup>12</sup> Below are the findings and purposes sections of the act which are descriptive of the problem Congress intended to address through the enactment of CROA.

##### *“(a) Findings*

*The Congress makes the following findings:*

*(1) Consumers have a vital interest in establishing and maintaining their credit worthiness and credit standing in order to obtain and use credit. As a result, consumers who have experienced credit problems may seek assistance from credit repair organizations which offer to improve the credit standing of such consumers.*

*(2) Certain advertising and business practices of some companies engaged in the business of credit repair services have worked a financial hardship upon consumers, particularly those of limited economic means and who are inexperienced in credit matters.*

##### *(b) Purposes*

*The purposes of this subchapter are—*

*(1) to ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services; and*

*(2) to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.”*

#### Administrative Enforcement of CROA:

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<sup>12</sup> 15 U.S.C. Chapter 41, Subchapter II – A – CREDIT REPAIR ORGANIZATIONS

The Federal Trade Commission enforces CROA and often partners with state attorneys general on their enforcement sweeps. Click [here](#) for a recent example of their enforcement efforts. They also seek to educate consumers regarding credit repair. Click [here](#) for additional background on their efforts.

#### Private Enforcement of CROA:

CROA can also be enforced through private rights of action. The reason for including private litigation as an enforcement option was to ensure that consumers, themselves, could seek remedies where they had been harmed by fraudulent credit repair companies. However, more recently plaintiffs' attorneys have successfully litigated cases against CDIA members using CROA though these products were not in existence when CROA was enacted. Classes have been certified and expensive settlements have been reached. In contrast to these private-sector efforts which result in the misapplication of CROA to law-abiding companies and products which benefit consumers, no state attorney general or the Federal Trade Commission has tried to apply CROA to credit monitoring products.

The misapplication of CROA is unfair for consumers and the companies which provide financial literacy services which help consumers with their credit standing and which monitoring their credit reports. The misapplication of CROA retards innovation in terms of lowering costs for consumers (affordability is always relevant) and it reduces competition between providers on the basis of the features and benefits of such products, which means consumers don't have access to the product that would best meet their needs.

It is clear through the Congressional findings and purpose that CROA was not directed at our members' products and services. In fact, these products and services didn't exist in 1996. We believe that it should be made clear that companies that provide products and services proven to help consumer learn about and protect their credit standing should not be subject to CROA, particularly the number of CDIA members who are highly regulated and abide by the law.

#### **Conclusion**

I am grateful of this opportunity to testify and for your interest in our members. They are a vital and successful part of our U.S. economy. Though 95% of consumers are satisfied with the results of their reinvestigations and 98% of credit reports don't contain a material error, our members remain committed to always improving systems and learning from both anecdotes and from new research.

I am happy to answer any questions.

## APPENDIX I – CDIA NEWS RELEASE – FTC ACCURACY STUDY

February 11, 2013 **FOR IMMEDIATE RELEASE**

Norm Magnuson

202-408-7406

### FTC REPORT CONFIRMS CREDIT REPORTS ARE ACCURATE

#### CDIA Says Consumers Should Take Advantage of Free Credit Reports

The Federal Trade Commission (FTC) released its latest study on credit reports today and reconfirmed the findings of several recent studies that conclude that credit reports are highly accurate and play a critical role in facilitating access to fair and affordable consumer credit. The FTC's research determined that 2.2 percent of all credit reports have an error that would increase the price a consumer would pay in the marketplace and that fully 88% of errors were the result of inaccurate information reported by lenders and other data sources to nationwide credit bureaus. The study also showed that 95 percent of consumers are unaffected by errors in their credit report.

Stuart Pratt, president and CEO of the Consumer Data Industry Association (CDIA), said, "Most consumers are well aware that their credit report is a fundamental reflection of their discipline and responsibility when accessing and using consumer credit. This additional study from the US government's chief consumer protection agency should reassure consumers that they can depend upon the accuracy of their credit history."

"While the overall number of errors and their impact on consumers' creditworthiness is small, maintaining accurate credit reporting data is essential to both lenders and credit bureaus. We will continue to work with lenders and others who provide data to the credit bureaus to make sure the percentage of material errors impacting consumers is even lower", Pratt said.

This is the third study in just over a year that addresses factors associated with the accuracy of credit reports. In December 2013, the Consumer Financial Protection Bureau (CFPB) published a white paper on credit reporting and found only 1.3 percent to 3.9 percent of all consumers file a dispute about information in their credit report. In 2011, the Policy and Economic Research Council (PERC) also undertook a peer-reviewed study of credit report accuracy and found that consumer credit scores were negatively affected less than one percent of the time by an error in a credit report.

The CDIA encourages consumers to take advantage of their right to free credit reports from nationwide credit reporting agencies by going to [www.annualcreditreport.com](http://www.annualcreditreport.com). To convince more consumers to look at their credit reports, CDIA's nationwide credit reporting companies have given the Association a grant to fund new public service announcements focused on connecting them with their credit reports.

“Confirmation that credit reports are accurate is a good thing,” said Pratt, “but all consumers should be aware that checking credit reports every year is fundamental to accuracy.”

#### About CDIA

Founded in 1906, CDIA is the international trade association that represents 170 consumer data companies. CDIA members represent the nation's leading institutions in the credit reporting, mortgage reporting, check verification, fraud prevention, risk management, employment reporting, tenant screening, and collection services businesses.

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