

Americans for Financial Reform

Accountability, Fairness, Security

October 20, 2009

The Honorable Barney Frank
Chairman, Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: Frank CFPA Amendment #1 (consumer reporting agencies) -- Support

Dear Chairman Frank:

On behalf of the nearly 200 national, state and local consumer, employee, investor, community and civil rights organizations of Americans for Financial Reform,¹ and the undersigned organizations, we are writing to convey our strong support for your amendment to H.R. 3126, the Consumer Financial Protection Agency (CFPA) Act, to give the CFPA full jurisdiction over unfair, deceptive or abusive practices concerning credit reporting and consumer reporting agencies. The amendment restores the CFPA's jurisdiction over these issues as reflected in the original bill.

The Fair Credit Reporting Act (FCRA) is a complex statute that governs several types of actors – first, the credit bureaus, or as known in the statute, the *consumer reporting agencies* (CRAs) who assemble and maintain databases of consumer information; the creditors, debt collectors and others who furnish information (*furnishers*) to the CRAs; and potential lenders, insurers, employers and others who use consumer reports (*users*).

The current bill creates a balkanized and confusing structure that gives authority over the FCRA to the CFPA, but then carves out an almost total exemption for CRAs. The CFPA should instead have authority over the entire life cycle of credit and the range of parties involved in it, from lenders to CRAs to debt collectors. Credit reports play a critical role in the economic health and well-being of consumers and their families. A good credit history enables consumers to obtain credit at a fair price - to own a home, buy a car, obtain insurance for both, and perhaps even secure a job. Conversely, a bad credit report will deny consumers those same things.

Despite their critical roles, the three major nationwide CRAs (Experian, Equifax & TransUnion) have repeatedly engaged in measures that have harmed consumers. They have created a travesty of an automated dispute system that reduces a consumer's detailed complaint about inaccuracies in her report to a two digit code (handled by foreign outsource vendors). The CRAs also use overly broad criteria for identifying consumers, causing the credit reports of different consumers to become mixed or merged. The National Consumer Law Center documented these abuses in a report this year,

¹ All the organizations that comprise AFR support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed onto every statement.

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“Automated Injustice: How a Mechanized Dispute System Frustrates Consumers Seeking to Fix Errors in Their Credit Reports.” The system remains rife with inaccuracies, as documented by multiple studies with some finding serious errors in 25% of credit reports. In addition to these problems, the CRAs falsely promoted credit monitoring services as “free” credit reports,² and have sold copies of consumers’ credit reports to identity thieves.³ The CFPA should have authority to address these problems.

The amendment also streamlines the balkanized structure in the current bill that will perpetuate the conflict and problems that have plagued the current FCRA, with its split in jurisdiction between the Federal Trade Commission (FTC) and the banking regulators. Some of the inter-agency rulemaking, such as the furnisher accuracy and integrity guidelines, have been paralyzed for years due to differences between the FTC and banking regulators.

Moreover, the FTC has been hampered in its oversight of CRAs, lacking examination authority, general rulemaking powers, and adequate staff resources to take on the three major nationwide CRAs. In fact, the FTC has not brought an action against one of the nationwide CRAs for fundamental inaccuracy issues for over 10 years and has even failed to force the CRAs to take the simple step of forwarding a copy of the consumer’s dispute to the CRAs, in flagrant violation of the FCRA..

FTC and the Federal Reserve Board were also charged with the task of conducting a study on the possible discriminatory impacts of insurers’ use of credit scores under Section 215 of the Fair and Accurate Credit Transactions Act of 2003. The FTC, even using the insurance industry’s own data, found that there were clear racial disparities with credit-based insurance scores. Yet the scores were pronounced to be beneficial to consumers.

Accordingly, we strongly support your amendment to restore full CFPA jurisdiction over credit reporting issues and consumer reporting agencies.

Yours very truly,

Americans for Financial Reform
Center for Responsible Lending
Consumer Action
Consumer Watchdog
Consumers Union
Demos
Empire Justice Center

²See Press Release, *Marketer of “Free Credit Reports” Settles FTC Charges*, Fed. Trade Comm’n, Aug. 16, 2005, available at <http://www.ftc.gov/opa/2005/08/consumerinfo.shtm>.

³See Press Release, *Consumer Reporting Agency Settles FTC Charges: Sold Tenant Screening Reports to Identity Thieves*, Fed. Trade Comm’n, Mar. 5, 2009, available at <http://www.ftc.gov/opa/2009/03/rrs.shtm>.

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Institute for College Access & Success

National Association of Consumer Advocates

National Consumer Law Center (on behalf of its low income clients)

National Community Reinvestment Coalition

National Legal Aid and Defenders Association

Project on Student Debt

Public Citizen

Sargent Shriver National Center on Poverty Law

U.S. PIRG