

WRITTEN STATEMENT OF  
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ON BEHALF OF  
CONSUMER BANKERS ASSOCIATION  
BEFORE THE  
COMMITTEE ON FINANCIAL SERVICES  
U.S. HOUSE OF REPRESENTATIVES

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Chairman Oxley, Ranking Member Frank, and Members of the House Committee on Financial Services, my name is Joe Belew, I am president of the Consumer Bankers Association (“CBA”). I am pleased to appear before you today. Thank you for the invitation to speak on this important topic.

The CBA is the recognized voice on retail banking issues in the nation’s capital. Member institutions are the leaders in consumer financial services, including auto finance, home equity lending, card products, education loans, small business services, community development, investments, deposits and delivery. CBA was founded in 1919 and provides leadership, education, research and federal representation on retail banking issues such as privacy, fair lending, consumer protection legislation and regulation. CBA members include most of the nation’s largest bank holding companies, as well as regional and super community banks that collectively hold two-thirds of the industry’s total assets.

### **H.R. 2622 and FCRA National Uniformity**

CBA strongly supports national uniformity in financial services laws, especially as they apply to information about consumers. We urge Congress to create national standards which replace state laws impeding national uniformity. To this end, the Fair Credit Reporting Act (“FCRA”) and its national uniformity provisions must be reauthorized, to protect the national credit granting system and to encourage superior customer service. CBA will work for FCRA renewal and, in addition, will continue to seek opportunities to rationalize the privacy provisions of the Gramm-Leach-Bliley Act.

The initial focus of H.R. 2622 is on the reauthorization of the FCRA national uniformity standards. These standards are critically important for consumers, financial institutions, and the national economy as a whole. The focus of H.R. 2622 and this hearing is on FCRA, and rightfully so. The national uniformity standards apply to seven key areas of the FCRA and any erosion of the national standards would have broad economic effects.

The market for consumer credit has become a truly national competitive market. Credit at competitive prices and terms is available to consumers in cities, towns, and rural areas in every state. The national credit reporting system is the foundation that supports this market. National uniformity is essential to ensure that creditors have access to consistent information about consumers throughout the country that can be used to make consistent credit decisions. For example, the national uniformity provisions ensure that states cannot require consumer reporting agencies to limit the information in consumer reports to the rules of the state where the consumer resides, which would destroy the consistency and thus the reliability of consumer reports. For example, states could establish different rules for the reporting of late payments, defaults, or other information in a well intentional but misdirected effort to protect consumers.

Consistent information about consumer transactions is essential to ensure that institutions can continue to rely on consumer report information to make decisions. In the absence of national uniformity standards, many consumers will not receive credit that they qualify for due to incomplete credit report information. At the same time, other consumers may receive credit for which they are not qualified. The resulting lost lending opportunities, coupled with increased

losses, would increase the costs of consumer credit, leading to a reduction in borrowing and a reduction in consumer spending. From the consumer's standpoint, these effects will be felt most strongly by low and moderate income borrowers.

It also is important to recognize the importance of information sharing to the financial holding company structure and the efficient delivery of financial services to consumers. Without a national uniform rule permitting affiliate sharing, institutions will find it increasingly costly and inefficient to operate national programs because of the operational problems institutions would face through inconsistent state requirements. More restrictive affiliate sharing rules are inefficient in themselves and requirements to adhere to different rules on a state-by-state basis impose additional costs and burdens. For these simple reasons alone, a consistent rule on affiliate sharing is critical to the operations of financial services companies.

### **H.R. 2622 and Identity Theft**

The second area of focus in H.R. 2622 is identity theft. I strongly support the Committee's efforts in this regard. CBA and its members have been actively working with Treasury, the banking agencies, and other industry groups, particularly the American Financial Services Association, Consumer Data Industry Association, and National Retail Federation on this critical subject. Identity theft usually involves two victims—consumers and financial institutions, including CBA members. The reputational impact to consumers involves lost time and frustration, while financial institutions often suffer the financial losses of identity theft. CBA believes that H.R. 2622 represents a good start on two key elements of a workable identity

theft solution—preventing identity theft and assisting consumers in responding to incidences of identity theft.

Also critical to H.R. 2622, however, is that we end up with a single set of rules with respect to identity theft prevention measures nationwide. Once Congress has fashioned a workable solution, it must be uniform throughout the country. Additional state rules pertaining to identity theft would be counter productive in that would complicate the prevention of identity theft and slow the process of responding to identity theft. Enforcement against identity thieves is also a fundamental aspect of solutions to identity theft.

Fraud alerts, as would be required in section 202 of H.R. 2622, are critical in protecting consumers and in warning financial institutions about possible identity theft activity. Nevertheless, consumers should be warned that fraud alerts are serious business and that such alerts should not be taken lightly. Fraud alerts can, among other things, preclude future credit and delay credit request. Accordingly, fraud alerts should be used only where it appears that identity theft has actually occurred or is likely to occur.

Consumer reporting agencies would be required, under section 204 of H.R. 2622, to provide consumers who have reason to believe they are victims of fraud or identity theft with a summary of the rights of consumers under the Consumer Credit Protection Act. This information is important to consumers. In addition, the calls for the development of “best practices” guidelines by the Federal Trade Commission (“FTC”), I believe that any such guidelines should be developed jointly with the Federal Reserve Board (“FRB”). After all, it is

the FRB that has been given rule writing authority over most elements of the Consumer Credit Protection Act. And since consumer education is a crucial element of any war on identity theft, both federal agencies should include similar guidance on their Web sites, available to all consumers. Both agencies have taken helpful steps on identity theft, and this would be an important addition to those important efforts.

Section 205 would require a consumer reporting agency to block the reporting of any information identified by the consumer in the consumer's file resulting from an alleged identity theft. While it is important for consumers to be able to block information quickly when identity theft occurs, Section 205 must be crafted carefully to avoid abuse by consumers and credit repair clinics in an attempt to force deletion or non-reporting of accurate, but unfavorable, information in credit files. Also, it is important that there be accountability when consumers or credit repair clinics abuse this important right.

Section 206 would require the federal banking agencies to establish procedures to identify possible instances of identity theft. The legislation would require the banking agencies to jointly implement and maintain guidelines for use by the insured depository institutions in identifying patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. This requirement could be a helpful addition, but it is important to recognize that Section 326 of the USA PATRIOT Act and its implementing regulations were just recently released by the federal banking agencies. Therefore, any agency rules should not duplicate or conflict with the requirements of Section 326.

## **H.R. 2622 and Improving Resolution of Consumer Disputes**

The third major area of H.R. 2622 is Title III on improving resolution of consumer disputes. For example, Section 301 would authorize the FTC to develop procedures for referral of consumer complaints under Title III and to develop model procedures to be used by individuals for contacting and informing creditors and consumer reporting agencies of allegedly fraudulent information in their files. Most of the accounts impacted by this rule writing authority will involve financial institutions, including members of CBA. Accordingly, it is essential that the federal banking agencies have the authority to develop such rules, so that the rules will be effective without unduly interfering with the underlying operations of financial institutions.

In addition, Section 303 appears to require both the FTC and FRB to each conduct studies and for each to submit a report to Congress on their findings and recommendations for the investigation of disputed accuracy and prompt correction or deletion of inaccurate or incomplete information. Only one study and one report should be required, and because most furnishers are financial institutions, like CBA members, the participation of a banking agency like the FRB is essential.

## **H.R. 2622 and Improving Accuracy of Consumer Records**

Section 401 would add a new requirement for consumer reporting agencies to notify a requester of a consumer report when the request includes a discrepancy in the consumer's address from the current address in the agency's credit report file. This section is a good

addition and it gives a financial institution an additional factor to consider in their efforts to prevent identity theft.

### **H.R. 2622 and Summary of Credit Scores**

Title V of H.R. 2622 would impose a new requirement that consumers receive a summary of their credit scores along with their credit reports. It is important, however, that only a summary of the credit score be provided, rather than the credit scoring methodology, because disclosing credit scoring methodology would facilitate credit and fraud risk schemes. In addition, it is important not to disclose important intellectual property rights of companies that generate the credit scores.

### **Additional Issues under FCRA Reauthorization**

Other suggestions have been made for additional FCRA changes, including shortening the time frame for error resolution. However, the existing time is already very short—30 days “all in” for both the consumer reporting agency and the furnisher to rectify errors in consumer reports. In contrast, the Truth in Lending Act permits up to 90 days for a creditor alone to respond to an error. Shorter periods would be a boon for credit repair clinics, forcing deletion of correct, but unfortunate, information that cannot be verified in a shorter period.

In addition, the sharing of medical information among affiliates, although not addressed in H.R. 2622, has been raised. CBA members do not share medical information with affiliates,

and CBA would not oppose such a restriction. Similarly, CBA would support limits of the use of medical information for credit decisions making without consent. However, because the availability of such information may be important in limited contexts, such as small business lending, the details of the restrictions on the use of medical information for credit decisioning should be left to the FRB to avoid unintended consequences of implementing the Congressional mandate.

Again, I appreciate the opportunity to speak on this important topic, and I would be pleased to answer questions from the Committee.