



NATIONAL CONSUMERS LEAGUE

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May 13, 2022

The Honorable Sherrod Brown
Chairman
Senate Banking Committee
SD-534 Dirksen Senate Office Building, Washington, DC 20510-6075

The Honorable Maxine Waters
Chairwoman
House Financial Services Committee
2129 Rayburn House Office Building Washington, DC 20515

cc: Members of the Senate Banking & House Financial Services Committee
Rohit Chopra, Director, Consumer Financial Protection Bureau (CFPB)
Sandra Thompson, Acting Director, Federal Housing Finance Agency (FHFA)

Dear Chairwoman Waters and Chairman Brown,

As leaders of the two committees in the House and the Senate entrusted with protecting the rights of consumers in our nation's financial system, one of the most important roles you play is the oversight of that system. The investigations, hearings, and in-depth work help to ensure that wrongdoing is exposed, and the interests of consumers are kept front and center. Too often, large corporations have blatantly ignored consumer protections, failed to provide adequate safeguards, and in some cases willfully broken the law. It is critical for your committees to highlight these violations and to ensure wrongdoers aren't rewarded for their actions.

We write today with concerns that one sector of the financial services system is poised to possibly be rewarded by one agency of the US Government while another agency has found these very same companies guilty of willfully violating the law since 2017.

We are referring to the nation's credit bureaus, TransUnion, Equifax, and Experian. The three bureaus keep financial records and establish credit scores for hundreds of millions of Americans. For years, consumer organizations like ours have been raising questions about the behavior and actions of these entities, who in recent years have together created their own credit scoring company called VantageScore.

On April 12th of this year, the Consumer Finance Protection Board (CFPB) filed a lawsuit against credit bureau TransUnion and their long-time CEO for willfully violating the law and defrauding consumers. In 2017 the CFPB found TransUnion guilty of deceiving consumers through the use of digital dark partners. CFPB issued an enforcement order against them. Fast forward almost five years, and the CFPB found that Transunion not only willfully ignored the 2017 cease-and desist-order, but also violated other consumer protection laws as well.

<https://www.consumerfinance.gov/about-us/newsroom/cfpb-charges-transunion-and-senior-executive-john-danaher-with-violating-law-enforcement-order/>

CFPB Director Chopra couldn't have said it better in his press release announcing their lawsuit. "TransUnion is an out-of-control repeat offender that believes it is above the law." Director Chopra continued, "I am concerned that TransUnion's leadership is either unwilling or incapable of operating its businesses lawfully."

This is not the first time we have seen a deliberate disregard for consumer rights and protections by the credit bureaus. In September of 2017, the nation learned that another of the big three, Equifax, had been breached and the financial records of close to 150 million Americans had been compromised. Investigations by Congress and the FTC found that Equifax had failed to protect the data that they had been entrusted with and a global settlement was reached.

In addition to these examples of negligence and criminal misconduct, our organizations are also concerned about the credit bureaus when it comes to their fiduciary responsibility to maintain and update the financial records of the American people. We worry that simple everyday care and maintenance is being pushed aside in the pursuit of profits, which is why in July of 2021 NCL and Consumer Action wrote to the CFPB and FTC asking them to update a key 2012 study about the accuracy of financial data at the bureaus.

The record demonstrates that egregious behaviors like this should not be rewarded and indeed, should be vigorously investigated and exposed. Both of your committees have conducted important investigations into the credit bureaus, but we worry that another part of the government may be poised to reward them with millions of dollars of "new business."

As we noted above, the three credit bureaus own a credit scoring company called VantageScore. Vantage Score is vigorously lobbying the FHFA to spend millions of dollars to change the credit scoring system for the GSEs in order to win market share.

We recently took part in a listening session at the FHFA where they outlined four options that they are considering for updating credit score methods. We and other consumer groups, including the National Consumer Law Center, spoke out against one of the options being considered, i.e., letting lenders chose what score is to be used, and what it would mean for consumers if it were to be selected.

Putting aside our substantial concerns about what it means for competition to have the credit bureaus control access to all the consumer data and then get access to the credit scoring market, giving them the power to price out any of their competitors, we wonder about what kind of message this would send if one agency were to reward the very company whose owners blatantly violate consumer protection laws and ignore law enforcement orders.

Encouraging new and innovative ways to create credit scores for the benefit of consumers is a great goal, but it must be done with care and taking into consideration the credit bureaus' records in protecting consumers.

As you and your committee review the recent actions by CFPB and continue your examination of our credit scoring system, we urge you to ask tough questions and share your concerns directly with the FHFA, especially before that agency takes any action that could send millions of dollars into the pockets of VantageScore.

We must speak with one united voice across the US Government that a clean record on consumer rights and protections are paramount, especially when it comes to access to credit and consumer protections in our financial system.

We have attached the letter we sent to the FTC and CFPB in 2012 that we referenced above, and a recent article by Chi Chi Wu of National Consumer Law Center regarding the FHFA listening session. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Sally Greenberg". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sally Greenberg
Executive Director
National Consumers League