



COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

Bill Nelson
Ranking Member

Are You Getting the Credit You Deserve?

Credit Reports Are Still
Plagued by Millions of Errors

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Executive Summary

In September 2017, many Americans were stunned to learn that a data breach at Equifax Inc. (Equifax), one of the three major U.S. credit reporting agencies (CRAs), exposed sensitive personal and financial information of over 145 million consumers. This revelation prompted investigations into the breach by federal agencies and state attorneys general, as well as congressional hearings to examine the breach and the data security practices of Equifax. While these inquiries rightly focus on the breach and inadequate data security procedures of Equifax and other CRAs, another serious issue involving lax practices by CRAs is the tens of millions of errors in credit reports that continue to plague consumers.

Each of the three largest nationwide CRAs – Equifax, Experian plc (Experian), and TransUnion, LLC (TransUnion) – maintains a database of credit reports on more than 200 million consumers. These credit reports consist of detailed financial information provided by data furnishers, as well as records from public sources that relate to consumers' credit history.

Credit reports, and associated credit scores, are used to assess consumers' creditworthiness and have a major impact on the ability of consumers to obtain loans. In addition to lenders, a growing number of other decision makers, including potential employers, utility companies, telecommunication providers, landlords, and insurance underwriters, use credit reports and scores to evaluate consumers' perceived credit risk. Errors in credit reports can deny consumers credit or cause consumers to pay higher interest rates, which can cost consumers thousands of dollars over the life of a loan. In other cases, errors can result in a landlord's refusal to rent an apartment, increased insurance premiums, or the denial of employment. In 2012, the Federal Trade Commission (FTC) found one in five consumers had a material error on his or her credit report.

In an effort to assess the accuracy of information in credit reports and to better understand the current dispute resolution practices of the three largest CRAs, Senator Bill Nelson, the Ranking Member of the U.S. Senate Committee on Commerce, Science, and Transportation, sent a series of questions to the CRAs requesting information on these issues.

The responses to these inquiries indicate that many credit reports are still rife with errors. Specifically, from 2014 to 2016, consumers contacted Equifax and TransUnion more than 60 million times to dispute the accuracy of one or more items on their credit reports. Despite repeated requests to Experian for this information, Experian failed to provide data on consumer contacts as of the release of this report. The number of contacts received by Equifax and TransUnion increased each year and nearly doubled from 2014 to 2016: 14,627,864 (2014); 19,269,975 (2015); 27,066,069 (2016).

Over the same period, consumers disputed approximately 224 million items on credit reports maintained by the three largest CRAs. The number of disputed items reported by Equifax, Experian, and TransUnion increased by over 60% from 2014 (56,963,926) to 2016 (91,321,672). Of these disputed items, more than 122 million confirmed errors were identified by consumers, meaning almost 55% of the disputed items were either modified or deleted by the CRAs. Consistent with the figures for dispute contacts and disputed items, the number of errors also increased each year: 36,265,479 (2014); 41,425,866 (2015); 44,802,217 (2016).

Dispute Contacts <i>(Equifax and TransUnion only)</i>	Disputed Items	Confirmed Errors
2014: 14,627,864	2014: 56,963,926	2014: 36,265,479
2015: 19,269,975	2015: 75,777,417	2015: 41,425,866
2016: 27,066,069	2016: 91,321,672	2016: 44,802,217
Total: 60,963,908	Total: 224,063,015	Total: 122,493,562

While the CRAs note that the number of disputes is inflated by consumer credit repair entities, the tens of millions of errors modified or deleted by the CRAs each year nevertheless reveal that errors in consumers' credit reports are rampant. Furthermore, given that many consumers never even check their credit reports, these figures may understate the total number of errors in all credit reports.

Consumers frequently complain to government regulators about problems with their credit reports. According to the Consumer Financial Protection Bureau (CFPB), consumers submitted nearly 195,800 credit reporting complaints from July 2011 to March 2017. Credit reports were the third most-complained-about product behind debt collection and mortgages. CFPB complaint data also reveals that Equifax, Experian, and TransUnion have always been among the top five most-complained-about companies in CFPB's 22 monthly complaint reports that break out complaint volume by company. Equifax has been the most-complained-about company in 20 of these monthly complaint reports.

The investigation also found that the three largest CRAs maintain credit databases of more than 200 million consumer files and receive information from approximately 10,000 furnishers. Each month, these furnishers provide information on more than 1.3 billion trade lines. While all three CRAs refused to identify any of their furnishers by name, their responses reveal that the majority of their data comes from a small number of furnishers. The CRAs also refused to reveal the furnishers they had taken disciplinary actions against. While the CRAs did provide the total number of data furnishers they suspended or terminated, the numbers seem to be low when compared to the total universe of furnishers that provide data to the CRAs and the prevalence of errors in credit reports.

When other companies offer poor service, consumers can turn to different providers for better options. Unfortunately, U.S. consumers do not have alternatives to the three largest CRAs, as nearly all major creditors use their data to gauge creditworthiness. Therefore, it is imperative that the dispute resolution process of CRAs be improved so that consumers are treated fairly and given the credit they deserve. CRAs must make the dispute resolution process easier for consumers, establish better processes for the removal of inaccurate information, and take a tougher stance against furnishers that provide inaccurate information. Consumers should regularly check their credit reports with all three major CRAs to determine whether their reports contain any of the tens of millions of errors discovered each year. When a CRA fails to promptly correct an error in response to a dispute, consumers should file complaints with the FTC and CFPB. Furthermore, the FTC and CFPB must continue their long-standing efforts to protect consumers and ensure that the CRAs are complying with the Fair Credit Reporting Act.

I. BACKGROUND

A. Credit Reporting Agencies and Credit Reports

According to the Fair Credit Reporting Act (FCRA),¹ credit reporting agencies (CRAs) are firms that prepare credit reports based on historical data of consumers' financial transactions.² Each of the three largest nationwide CRAs – Equifax Inc. (Equifax), Experian plc (Experian), and TransUnion LLC (TransUnion) – maintains a database of active credit files on more than 200 million consumers.³ In 2016, Equifax, Experian, and TransUnion reported a combined revenue of nearly \$9.4 billion.⁴

Credit reports from the three CRAs consist of information submitted voluntarily by data furnishers, which are creditors and other third parties that provide financial information about consumers, and records from public sources that relate to consumers' credit history. Credit reports all contain the same basic categories of information, which include:⁵

Identifying Information: This information generally includes name, address, Social Security number, date of birth, and employment information. These factors are not used in credit scoring.

Credit Accounts/Trade Lines: Furnishers report information to the CRAs about current and past individual credit accounts established with the furnishers. The information generally covers: the type of account (e.g., mortgage, auto loan, or credit card), the date the account was opened, the credit limit or loan amount, the account balance, and payment history.

Public Record and Collections: Public record information from state and county courts, as well as overdue debt information from collection agencies, is also gathered. Public record information can include lawsuits,

¹ 15 U.S.C. § 1681 et seq.

² The FCRA uses the term “consumer reporting agency” which is defined as “any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.” 15 U.S.C. § 1681a(f).

³ Consumer Financial Protection Bureau, *Key Dimensions and Processes in the U.S. Credit Reporting System: A Review of How the Nation's Largest Credit Bureaus Manage Consumer Data*, at 21 (Dec. 2012) (online at http://files.consumerfinance.gov/f/201212_cfpb_credit-reporting-white-paper.pdf) [hereinafter “CFPB Key Dimensions 2012 Report”].

⁴ Equifax, *2016 Annual Report*, at 2 (online at http://www.annualreports.com/HostedData/AnnualReports/PDF/NYSE_EFX_2016.pdf) (\$3.1449 billion); Experian, *Annual Report 2016*, at 39 (online at <https://www.experianplc.com/media/2733/experian-ar2016.pdf>) (\$4.550 billion); TransUnion, *2016 Annual Report*, at 49 (online at <https://investors.transunion.com/~media/Files/T/Transunion-IR/annual-reports/2016/tru-2016-annual-report-final.pdf>) (\$1.7049 billion).

⁵ See myFICO, *What's In My Credit Report* (online at <http://www.myfico.com/crediteducation/in-your-credit-report.aspx>); CFPB *Key Dimensions 2012 Report*, *supra* note 3, at 8-9.

bankruptcies, foreclosures, liens, and wage garnishments.

Credit Inquiries: This section of a credit report includes a list of all entities that have accessed the report within the last two years. Credit reports list both “hard” inquiries, which result from the consumer’s own requests for credit, and “soft” inquiries, which are not triggered by the consumer and do not affect the consumer’s credit score. A soft inquiry may occur, for example, when a bank requests a consumer’s report for the purpose of making a pre-approved credit offer in the mail.

B. FCRA Requirements for Data Accuracy and Dispute Resolution Procedures

The FCRA establishes consumers’ rights and CRAs’ responsibilities with respect to credit reports.⁶ In general, the FCRA requires CRAs to maintain accurate credit reports. Accuracy requirements are found in Section 607(b), which states: “Whenever a consumer reporting agency prepares a consumer report it shall follow *reasonable procedures to assure maximum possible accuracy* of the information concerning the individual about whom the report relates” (emphasis added).⁷

Inaccuracies can occur when information that does not belong to a consumer is attached to his or her credit report (known as a “mixed file”), information that belongs to a consumer is omitted, or there are factual errors pertaining to a consumer’s account or trade line.⁸ These inaccuracies can be caused by data entry errors, CRA matching inaccuracies, identity theft or fraud, furnisher system or process inaccuracies, and CRA process errors, such as when a CRA allows the reappearance of inaccurate data that was removed as the result of a dispute.⁹

Given the potential for inaccuracies, the FCRA requires CRAs to maintain procedures through which consumers can dispute and correct inaccurate information in their credit reports.¹⁰ The FCRA requires CRAs to “conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate and record the current status of the disputed information, or delete the item from the file.”¹¹ A CRA must complete an investigation within 30 days of receiving notice of a dispute from a consumer and must review and consider all relevant information submitted by the consumer.¹²

⁶ The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) shifted many federal consumer financial protection powers from the Federal Trade Commission (FTC) to the Consumer Financial Protection Bureau (CFPB). The CFPB currently has rulemaking and enforcement authorities over all CRAs, as well as supervisory authority over the larger CRAs, while the FTC maintains its general authority to also enforce the FCRA. See Pub. L. No. 111-203.

⁷ 15 U.S.C. § 1681e(b).

⁸ CFPB *Key Dimensions* 2012 Report, *supra* note 3, at 23-24.

⁹ *Id.* at 24-26.

¹⁰ 15 U.S.C. § 1681i(a)-(d).

¹¹ 15 U.S.C. § 1681i(a)(1)(A).

¹² 15 U.S.C. § 1681i(a)(1)(A); 15 U.S.C. § 1681i(a)(4).

Within five business days of receiving a dispute, the CRA must notify the furnisher of the dispute.¹³ After receiving a dispute from a CRA, the furnisher is required to take certain steps, which include conducting an investigation, reviewing all relevant information provided by the CRA, reporting the results of the investigation to the CRA, and completing the investigation before the end of the 30-day period that the CRA has to complete the investigation.¹⁴ If the investigation determines that a disputed item is inaccurate, incomplete, or cannot be verified, the CRA must delete or modify the item.¹⁵ The CRA must then provide written notice to the consumer of the results within five days of completing the investigation.¹⁶

The Fair and Accurate Credit Transactions Act of 2003 (FACTA)¹⁷ amended the FCRA to improve the accuracy of consumers' credit reports by imposing additional obligations on furnishers. As required under FACTA, the Federal Trade Commission (FTC) and other federal banking regulatory agencies promulgated the Furnisher Rule, which obligates furnishers to establish reasonable policies and procedures to ensure the accuracy and integrity of the information they furnish to CRAs.¹⁸ The Rule also requires furnishers to investigate disputes received directly from consumers regarding the accuracy of their information.¹⁹

C. The Importance of Credit Reports and Harms Caused by Errors in Credit Reports

Because credit reports are widely used for many purposes, the accuracy of the data included in them is imperative to consumers' financial livelihoods. Lenders rely on credit reports and scores to assess consumers' creditworthiness. Lenders review credit reports when deciding whether to offer a loan to a consumer and, if so, at what interest rate and on what terms.²⁰ In addition, a growing number of other decision makers, including potential employers, utility companies, telecommunications providers, insurance underwriters, and landlords, are using credit reports to evaluate consumers.

Therefore, the consequences of errors in credit reports can be significant. Errors that negatively affect a consumer's credit may result in a lender's refusal to provide credit to that consumer. An error may also cause the lender to offer a loan with a higher interest rate and/or other unfavorable terms.²¹ In these cases, some consumers will pay thousands of dollars more in

¹³ 15 U.S.C. § 1681i(a)(2).

¹⁴ 15 U.S.C. § 1681s-2(b).

¹⁵ 15 U.S.C. § 1681i(a)(5)(A).

¹⁶ 15 U.S.C. § 1681i(a)(6).

¹⁷ Pub. L. No. 108-159, 117 Stat. 1952, codified to 15 U.S.C. §§ 1681-1681x (Dec. 4, 2003).

¹⁸ 16 C.F.R. Part 660.3.

¹⁹ 16 C.F.R. Part 660.4.

²⁰ Federal Trade Commission, *Building a Better Credit Report*, at 1 (May 2014) (online at <https://www.consumer.ftc.gov/articles/pdf-0032-building-a-better-credit-report.pdf>); CFPB *Key Dimensions 2012 Report*, *supra* note 3, at 10-11.

²¹ See Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, at 5 (Dec. 2012).

interest over the lifetime of a loan. Errors may also result in a refusal by a landlord to rent an apartment, increased insurance premiums, or a decision by a potential employer to not hire an otherwise qualified individual.²²

D. FTC Study on the Accuracy of Credit Reports

According to a study by the FTC, more than one in four (26%) consumers identified a potentially material error on at least one major credit report.²³ A material error constitutes one that would have a material effect on a consumer's credit standing (i.e., potentially changing the credit score associated with that credit report).²⁴ The study revealed that nearly one in five (21%) consumers found a material error that was corrected by a CRA following the consumer's dispute.²⁵ Furthermore, when CRAs changed consumers' credit reports in response to these disputes, 40% of these consumers experienced a credit score increase that resulted in a decrease in the consumers' credit risk tier, making them more likely to be offered credit and more likely to qualify for a lower interest rate and other favorable terms.²⁶

The FTC also released a study that followed up with consumers from the previous 2012 study who had disputed information that was not changed by the CRAs. The FTC found that nearly 70% of these consumers continued to believe that at least one piece of previously disputed information that remained on their reports was inaccurate.²⁷ In addition, two of the three CRAs reinserted previously removed negative information back into consumers' credit reports.²⁸

E. The Three Nationwide CRAs' Settlement with the New York Attorney General

On March 9, 2015, the New York Attorney General (NY AG) reached a settlement agreement with Equifax, Experian, and TransUnion after receiving consumer complaints and conducting an investigation concerning, among other things, the accuracy of consumer credit information maintained by the CRAs, the CRAs' practices regarding investigation of consumer disputes of alleged inaccuracies in credit reports, and the reporting of medical debt.²⁹ Some

²² See CFPB *Key Dimensions* 2012 Report, *supra* note 3, at 5.

²³ Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, at iv (Dec. 2012).

²⁴ *Id.* at i.

²⁵ *Id.* The Consumer Data Industry Association (CDIA) interpreted the FTC study to show that 2.2% of all credit reports have an error that would increase the price a consumer would pay in the marketplace and that 95% of consumers are unaffected by errors in their credit reports. CDIA Press Release, *FTC Report Confirms Credit Reports Are Accurate* (Feb. 11, 2013) (online at http://s3.amazonaws.com/rdcms-cdia/files/production/public/PDFs/FTC_Accuracy_Study_release_letterhead%20v021113.pdf).

²⁶ Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, at v (Dec. 2012).

²⁷ Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, at iii (Jan. 2015).

²⁸ *Id.* at iii-iv.

²⁹ In the Matter of the Investigation by Eric T. Schneiderman, Attorney General of the State of New York, of Experian Information Solutions, Inc.; Equifax Information Services, LLC; and TransUnion LLC, Settlement Agreement, at 1, 6-7 (Mar. 8, 2015) [hereinafter "NY AG Settlement"]. On May 20, 2015, the three CRAs entered

industry experts describe the settlement as the largest credit reporting industry reform since FACTA and a long overdue victory that will benefit consumers.³⁰ The settlement requires the CRAs, among a number of additional consumer protection reforms,³¹ to modify their dispute resolution procedures and monitoring of furnishers.³²

Under the settlement, the CRAs must improve the dispute resolution process. In light of the NY AG's finding that, in some instances, the CRAs used a fully-automated process to handle consumer disputes, the settlement requires the CRAs to train employees to review all supporting documents submitted by consumers for all disputes involving mixed files, fraud, or identity theft.³³ Further, for any dispute in which a consumer submits supporting documentation, a CRA employee with discretion to make the change requested by the consumer must review the supporting documentation.³⁴

The settlement also requires the CRAs to monitor furnishers and mandates they develop the National Credit Reporting Working Group, which is tasked with establishing best practices to increase oversight of furnishers and improve data accuracy.³⁵ The working group must develop reports that analyze key data related to furnishers, including the number of disputes involving a particular furnisher, a furnisher's rate of response to disputes, and the outcome of disputes.³⁶ In addition, each CRA must take corrective actions against furnishers that fail to comply with their obligations regarding data furnishing and investigating consumer disputes.³⁷

The CRAs must implement the provisions of the agreement in three phases.³⁸ All three CRAs implemented the provisions in phases 1 and 2 and are in the process of implementing the provisions in phase 3 by the March 2018 deadline.³⁹ Phase 3 initiatives include suppressing stale collection data, implementing enhanced policies around data furnisher monitoring, implementing

into a similar agreement with 31 state attorneys general. *See* In the Matter of Equifax Information Services LLC; Experian Information Solutions, Inc.; and TransUnion LLC, Assurance of Voluntary Compliance/Assurance of Voluntary Discontinuance (May 20, 2015).

³⁰ *See Credit-Reporting Giants Agree to Overhaul*, The Wall Street Journal (Mar. 9, 2015) (online at <http://www.wsj.com/articles/credit-reporting-giants-agree-to-overhaul-1425873884>); *TransUnion, Equifax and Experian Agree to Overhaul Credit Reporting Practices*, New York Times (Mar. 9, 2015) (online at <https://www.nytimes.com/2015/03/10/business/big-credit-reporting-agencies-to-overhaul-error-fixing-process.html>).

³¹ Other requirements under the settlement include instituting a 180-day waiting period before reporting medical debt on a credit report, increasing the visibility of annualcreditreport.com, and instituting a media campaign about consumers' rights. NY AG Settlement, *supra* note 29, at 13, 23-24, 26-28.

³² *Id.* at 11-12, 15-23.

³³ *Id.* at 22.

³⁴ *Id.* at 23.

³⁵ *Id.* at 29-32.

³⁶ *Id.* at 30-31.

³⁷ *Id.* at 32.

³⁸ *Id.* at 11, Exhibit A.

³⁹ Equifax Response to Ranking Member Nelson, at 5, Attachment (June 30, 2017); Experian Response to Ranking Member Nelson, at 4-5 (May 19, 2017); TransUnion Response to Ranking Member Nelson, at 3-6 (May 26, 2017).

final initiatives related to enhanced reinvestigation results communication, and preventing the reporting of certain medical debts.⁴⁰

II. RANKING MEMBER NELSON'S INVESTIGATION

In April 2015, Ranking Member Nelson sent letters to Equifax, Experian, and TransUnion asking questions about how they ensure the accuracy of information provided by their furnishers.⁴¹ In March 2017, Ranking Member Nelson sent letters to the three CRAs inquiring about how the companies handle disputes from consumers challenging the accuracy of information contained in their credit reports.⁴² The letters also asked the companies to provide consumer dispute data, consumer complaints, information about disciplinary actions taken against furnishers, and an update on the implementation of the requirements of the three CRAs' settlement with the NY AG. In addition, thousands of complaints filed against the three CRAs with the Consumer Financial Protection Bureau (CFPB) and the FTC were reviewed.

III. FINDINGS

A. Consumer Dispute Data from CRAs Reveals Tens of Millions of Errors

Consumers have the burden of checking their credit reports for errors and then reaching out to the CRAs to dispute any errors. Under Section 611 of the FCRA, a dispute occurs when a consumer notifies a CRA directly or indirectly of potentially incomplete or inaccurate information contained in his or her credit file.⁴³

Consumer dispute data from the CRAs reveals, from 2014 to 2016, consumers contacted Equifax and TransUnion more than 60 million times to dispute the accuracy of one or more items on their credit reports.⁴⁴ Despite repeated requests to Experian for this information, Experian failed to provide data on consumer contacts as of the release of this report. Specifically, the number of contacts received by Equifax and TransUnion increased each year and nearly doubled from 2014 to 2016: 14,627,864 (2014); 19,269,975 (2015); 27,066,069 (2016).⁴⁵

Over the same period, consumers disputed approximately 224 million items on credit reports maintained by all three CRAs.⁴⁶ The number of disputed items reported by Equifax, Experian, and TransUnion increased by over 60% from 2014 (56,963,926) to 2016

⁴⁰ NY AG Settlement, *supra* note 29, at Exhibit A.

⁴¹ Letters from Ranking Member Nelson and Senator Blumenthal to Equifax, Experian, and TransUnion (Apr. 28, 2015).

⁴² Letters from Ranking Member Nelson to Equifax, Experian, and TransUnion (Mar. 16, 2017).

⁴³ 15 U.S.C. § 1681i(a).

⁴⁴ Equifax Response to Ranking Member Nelson, at 3 (June 30, 2017); TransUnion Response to Ranking Member Nelson (Aug. 8, 2017).

⁴⁵ Equifax Response to Ranking Member Nelson, at 3 (June 30, 2017); TransUnion Response to Ranking Member Nelson (Aug. 8, 2017).

⁴⁶ Equifax Response to Ranking Member Nelson, at 3 (June 30, 2017); Experian Response to Ranking Member Nelson (Nov. 9, 2017); TransUnion Response to Ranking Member Nelson (Aug. 8, 2017).

(91,321,672).⁴⁷ Of these disputed items, more than 122 million confirmed errors were identified by consumers, meaning almost 55% of the disputed items were either modified or deleted by the CRAs but only after consumers initiated disputes.⁴⁸ Consistent with the numbers of consumer contacts and disputes, the number of errors increased each year: 36,265,479 (2014); 41,425,866 (2015); 44,802,217 (2016).⁴⁹

The CRAs note that these figures are inflated by consumer credit repair entities. Some credit repair entities charge consumers a fee per dispute, so these entities may be incentivized to submit disputes repeatedly.⁵⁰ While the numbers for dispute contacts and disputed items may be overstated due to credit repair entities, what is clear is that tens of millions of errors were identified by consumers. Furthermore, these figures capture only the errors that CRAs agreed to correct in response to consumer-initiated disputes. Given that many consumers never even check their credit reports – surveys have estimated that less than half of U.S. consumers check their credit reports each year⁵¹ – these figures may understate the total number of errors in all credit reports.

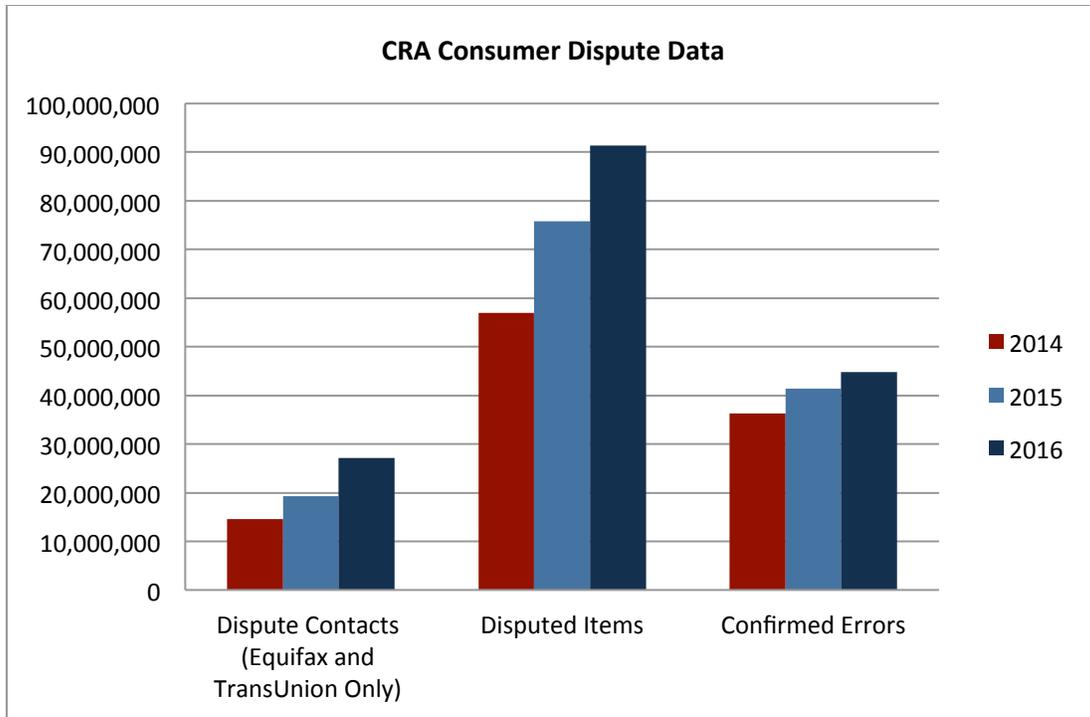
⁴⁷ *Id.*

⁴⁸ Equifax Response to Ranking Member Nelson (Sept. 1, 2017); Equifax Response to Ranking Member Nelson (Oct. 2, 2017); Experian Response to Ranking Member Nelson (Nov. 9, 2017); TransUnion Response to Ranking Member Nelson (Aug. 8, 2017).

⁴⁹ *Id.*

⁵⁰ See Experian Response to Ranking Member Nelson, at 2 (May 19, 2017); TransUnion Response to Ranking Member Nelson, at 2 (May 26, 2017). The FTC has filed enforcement actions against credit repair companies for sending false disputes to CRAs. See, e.g., Federal Trade Commission, *Credit Repair Operator's Bogus Letter Writing Earns an "F"* (June 18, 2014) (online at <https://www.consumer.ftc.gov/blog/2014/06/credit-repair-operators-bogus-letter-writing-earns-f>) (“RMCN sent more than a million phony letters to credit bureaus. The company’s method for improving consumers’ credit reports was to systematically lie to credit bureaus and challenge negative information – without regard to its accuracy – through letters disguised as though they were sent by consumers.”).

⁵¹ For example, a 2015 Bankrate survey found that only 46% of consumers indicated that they had checked their credit reports within the last year. Bankrate, *Survey: Americans Embrace Free Credit Scores* (May 4, 2015) (online at <http://www.bankrate.com/finance/consumer-index/money-pulse-0515.aspx>). Similarly, a 2013 Google Consumer Survey conducted by TransUnion found that 32.7% of surveyed Americans said they had never checked their credit report or credit score. Another 24.6% said they had not checked their credit report or credit score within the previous year. TransUnion, *One Third of Americans Have Never Checked Their Credit Report Reveals TransUnion Study* (Oct. 29, 2013) (online at <https://newsroom.transunion.com/one-third-of-americans-have-never-checked-their-credit-report-reveals-transunion-study/>).



B. Credit Reports Are a Major Source of Consumer Complaints According to CFPB and FTC Data

1. CFPB Consumer Complaint Data

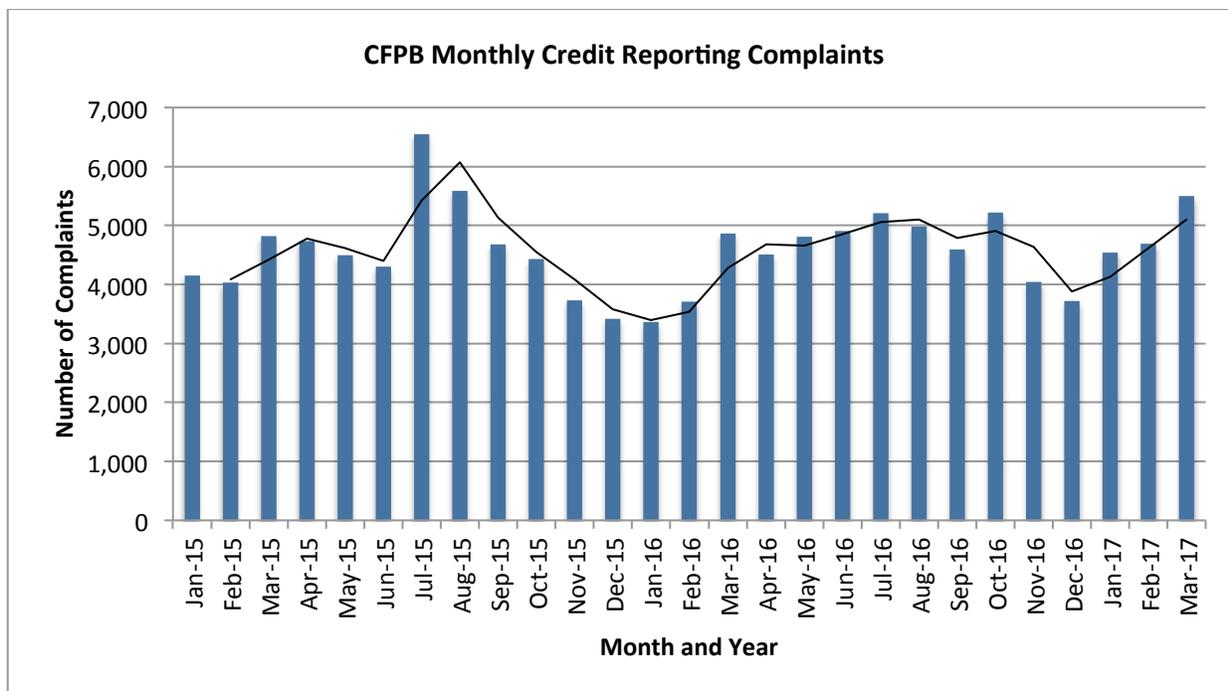
Credit reports are a major source of consumer complaints as revealed by CFPB complaint data. From July 2011 through March 2017, consumers submitted 195,826 credit reporting complaints to the CFPB, comprising nearly 17% of the approximately 1.1 million total complaints received by the agency over that time period.⁵² Credit reports were the third most-complained-about product behind debt collection (316,810) and mortgages (272,153).⁵³ The CFPB received the most credit reporting complaints in July 2015 (6,547).⁵⁴ In March 2017, the most recent month for which CFPB data is available, the agency received 5,498 complaints.⁵⁵

⁵² Consumer Financial Protection Bureau, *Monthly Complaint Report: Vol. 23*, at 19 (May 2017).

⁵³ Consumer Financial Protection Bureau, *Monthly Complaint Report: Vol. 24*, at 8 (June 2017).

⁵⁴ Consumer Financial Protection Bureau, *Monthly Complaint Report: Vol. 23*, at 18 (May 2017).

⁵⁵ *Id.* at 19.



Source: CFPB, *Monthly Complaint Report: Vol. 23*, Appendix A, Table 2 (May 2017)

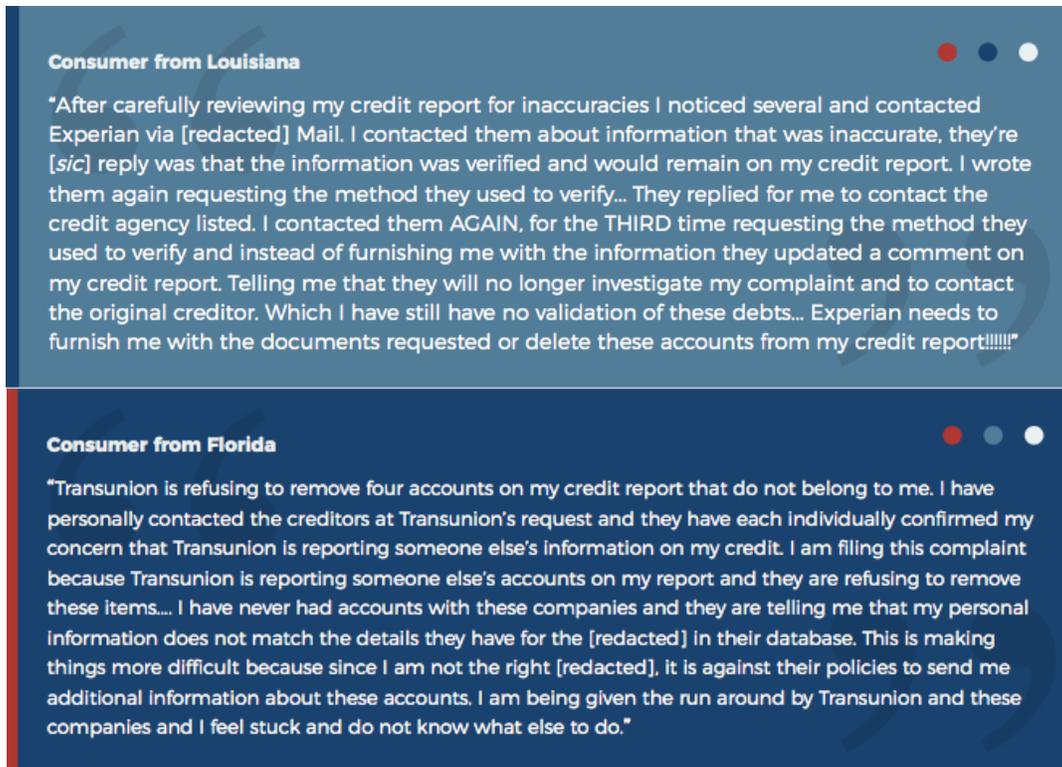
The most common complaint regarding credit reporting was that consumers’ credit reports contained incorrect information, which was present in 76% (148,650) of credit reporting complaints.⁵⁶ Other common complaints were about a CRA’s investigation of a dispute, a consumer’s inability to obtain a credit report or credit score, improper use of a credit report, and issues with credit monitoring or identity protection.⁵⁷

Consumer from Illinois

“Credit report agency [Equifax] refuses to delete unverified and inaccurate information on my credit report. I have disputed these 2 [redacted] account information as inaccurate with them several times, and they have come back to me and stated they were able to verify this debt. How is this possible? Here is a clear case of unverified debt, and I urge you to remove this item before I am forced to take legal action. Credit report agencies are scammers targeting elders like myself that they perceive to be vulnerable”

⁵⁶ Consumer Financial Protection Bureau, *Monthly Complaint Report: Vol. 24*, at 8 (June 2017).

⁵⁷ Consumer Financial Protection Bureau, *Monthly Complaint Report: Vol. 20*, at 12 (Feb. 2017).



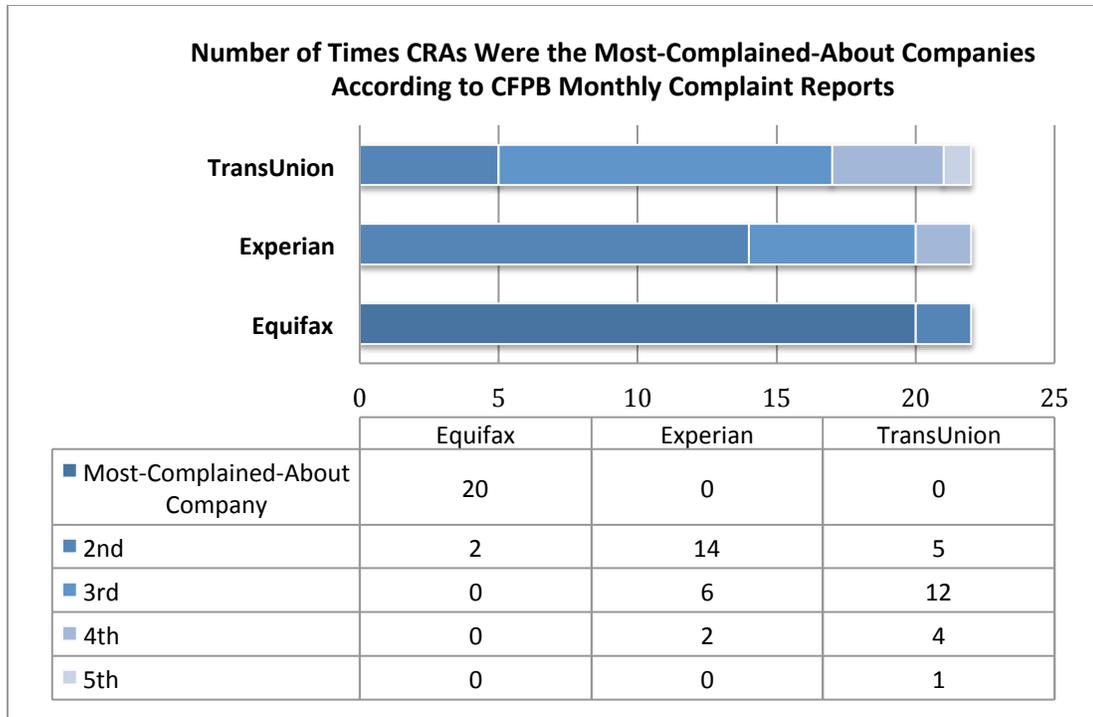
Source: CFPB Consumer Complaint Database⁵⁸

According to the CFPB's 22 monthly complaint reports that break out complaint volume by company, Equifax, Experian, and TransUnion have always been among the top five most-complained-about companies.⁵⁹ Equifax has been the most-complained-about company in 20 of these monthly complaint reports.⁶⁰

⁵⁸ Consumer Financial Protection Bureau, Consumer Complaint Database, Complaint ID 2577778 (July 18, 2017); Complaint ID 2467086 (Apr. 26, 2017); Complaint ID 2473264 (May 2, 2017).

⁵⁹ See Consumer Financial Protection Bureau, *Monthly Complaint Reports: Vol. 1-Vol. 22* (July 2015-Apr. 2017).

⁶⁰ *Id.*



Source: CFPB, *Monthly Complaint Report Vol. 1* (July 2015) – *Vol. 22* (Apr. 2017)

The CRAs have taken issue with the CFPB’s complaint database. According to Experian, “the CFPB fails to provide any context necessary to understand the complaint data that they release. In particular, the CFPB fails to identify that Experian is the largest consumer reporting agency in the United States and it touches more than 220 million consumers and delivers approximately 1 billion credit reports annually.”⁶¹ The CRAs have criticized the CFPB complaint database claiming that the database inflates actual complaint numbers by allowing consumers to submit complaints that should be filed as “disputes” under Section 611 of the FCRA.⁶² The CRAs also believe many complaints are submitted by credit repair companies.⁶³

2. FTC Consumer Complaint Data

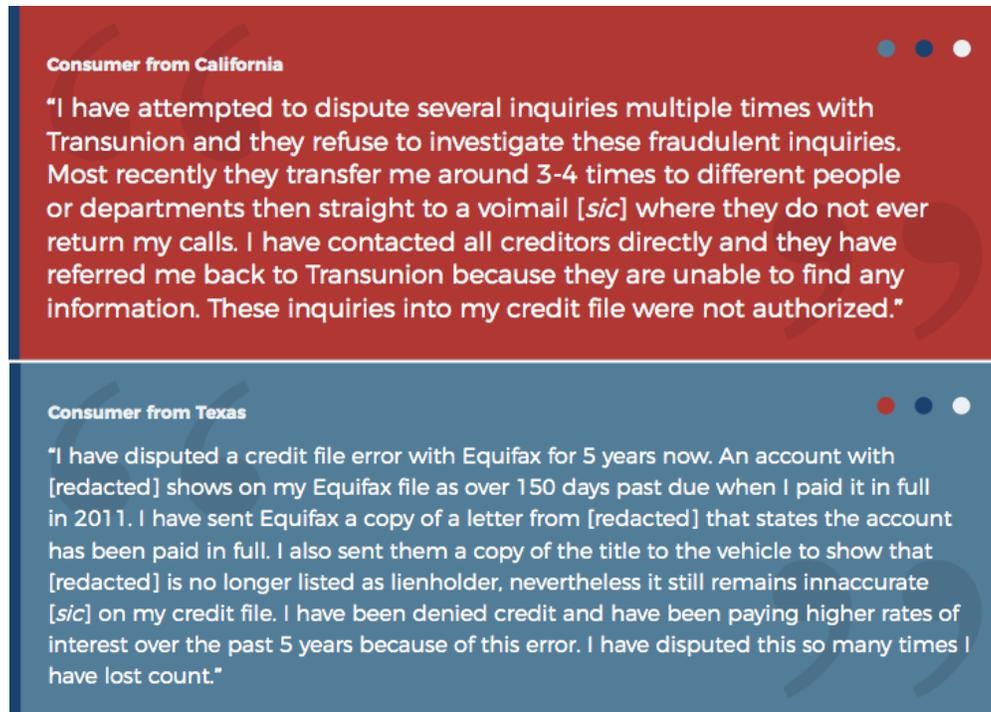
While the CFPB is the agency that receives the most complaints about CRAs, it is just one entity to which consumers can submit complaints about CRAs. Consumers can also submit complaints to the FTC, the Better Business Bureau, state attorneys general, and others. According to the FTC’s Consumer Sentinel Network, from 2014 to 2016, the FTC, Better

⁶¹ Experian Response to Ranking Member Nelson, at 3 (May 19, 2017).

⁶² Equifax Response to Ranking Member Nelson, at 4 (June 30, 2017); Experian Response to Ranking Member Nelson, at 3 (May 19, 2017); TransUnion Response to Ranking Member Nelson, at 2 (May 26, 2017).

⁶³ TransUnion estimates that more than half of the complaints submitted to the CFPB are submitted by or with help from credit repair companies. TransUnion Response to Ranking Member Nelson, at 2 (May 26, 2017). In addition, Equifax’s “experience is that these companies will file disputes simultaneously with the credit reporting companies, the CFPB Complaint Portal, and the data furnishers with the goal of getting the account deleted. Another tactic of credit repair companies is to file over and over again, with no new or additional relevant information.” Equifax Response to Ranking Member Nelson, at 5 (June 30, 2017).

Business Bureau, and state attorneys general received 24,868 complaints regarding CRAs.⁶⁴ Consumers frequently complained about deception or misrepresentation, inaccurate information, a CRA’s failure to investigate disputed information, and their inability to order annual free credit reports.⁶⁵



Source: FTC Consumer Sentinel Network⁶⁶

C. The Large Databases of the Three Major CRAs

Each of the three major CRAs maintains a credit database of more than 200 million consumer files and receives information from approximately 10,000 furnishers.⁶⁷ Every month, these furnishers provide information on more than 1.3 billion trade lines.⁶⁸ As one CRA explained, “[v]irtually every lender in the United States voluntarily provides information” to the company.⁶⁹

The CRAs refused to identify any of their furnishers by name. TransUnion explained, “Producing the names of all furnishers in these markets would be burdensome and shed very

⁶⁴ Response from the Federal Trade Commission to Ranking Member Nelson’s request for consumer complaints (Mar. 30, 2017).

⁶⁵ *Id.*

⁶⁶ Federal Trade Commission, Online Complaint Assistant (CIS), Complaint Number 76779567 (Sept. 22, 2016); Complaint Number 79295646 (Dec. 30, 2016).

⁶⁷ CFPB *Key Dimensions* 2012 Report, *supra* note 3, at 3.

⁶⁸ *Id.*

⁶⁹ TransUnion Response to Ranking Member Nelson, at 2 (June 12, 2015).

little light for the Committee.”⁷⁰ In addition, TransUnion stated that sharing the information would place the company at a “serious competitive disadvantage.”⁷¹ Equifax asserted that it has “a contractual obligation to not disclose data furnishers by name,”⁷² and Experian echoed the same concern.⁷³

The CRAs did provide basic, general data about their furnishers, which included information from all three CRAs about the types of industries that share data. Much of the data is furnished by financial institutions, including credit card issuers, mortgage lenders or servicers, auto lenders, the education industry, and debt collection agencies and debt buyers.⁷⁴ The CRAs also receive data from rental housing management companies and, when permitted by law, from some utility companies.⁷⁵

Additionally, the CRAs’ responses reveal that the majority of their data comes from a small number of furnishers, which are typically large financial institutions. For example, Experian explained that the top 10 furnishers provide more than 50% of the trade lines, and the top 50 furnishers provide more than 70% of the trade lines.⁷⁶

D. CRAs Currently Take Some Steps to Ensure Data Accuracy

1. Metro 2 Format

The CRAs utilize the Metro 2 format – a standard electronic data reporting format – to receive information from furnishers.⁷⁷ The Metro 2 format, which was developed to promote the reporting of accurate and complete data to the CRAs, includes identifying information about the consumer, such as first, middle, and last name; address; Social Security number; and date of birth.⁷⁸ It also contains account information, which may include account type; date the account was opened; credit limit; frequency with which payments are due; account status; date of first delinquency; and date the account was closed.⁷⁹ Furnishers typically report data and provide updates on the status of accounts to the CRAs on a monthly basis.⁸⁰ According to Equifax, “Standardizing how data is reported to the national bureaus is a key strategy for improving data

⁷⁰ *Id.* at 3.

⁷¹ *Id.*

⁷² Equifax Response to Ranking Member Nelson, at 2 (May 29, 2015).

⁷³ Experian Response to Ranking Member Nelson, at 1 (Jan. 26, 2016).

⁷⁴ Equifax Response to Ranking Member Nelson, Attachment A (May 29, 2015); Experian Response to Ranking Member Nelson, at 1 (May 29, 2015); Experian Response to Ranking Member Nelson, at 1 (Jan. 26, 2016); and TransUnion Response to Ranking Member Nelson, at 1 (Jan. 29, 2016).

⁷⁵ *Id.*

⁷⁶ Experian Response to Ranking Member Nelson, at 1 (Jan. 26, 2016).

⁷⁷ Experian Response to Ranking Member Nelson, at 1 (May 29, 2015).

⁷⁸ Equifax Response to Ranking Member Nelson, at Attachment B (May 29, 2015); Experian Response to Ranking Member Nelson, at 1-2 (May 29, 2015).

⁷⁹ Experian Response to Ranking Member Nelson, at 2 (May 29, 2015).

⁸⁰ *Id.* at 1; TransUnion Response to Ranking Member Nelson, at 3 (June 12, 2015).

quality.”⁸¹ Migrating all data furnishers to the Metro 2 format is an obligation in the NY AG settlement that must be completed by the March 2018 deadline.⁸²

2. Furnisher Accreditation and Monitoring Furnisher Data Quality

The process of credentialing new furnishers is an important part of how the three largest CRAs ensure data accuracy. According to the CRAs, furnishers are brought on board after being appropriately verified and credentialed. Generally, to verify that the applicant furnisher is a legitimate business, the credentialing process includes an inspection of the furnisher’s physical headquarters, website, business license, and other relevant company documents.⁸³ Experian also explained that it may use investigators to look for unethical or illegal business practices.⁸⁴

After a furnisher is accredited, the CRAs state that they continually monitor and audit furnishers for fraud and data accuracy. Equifax, for example, explained that it “assesses and vets data quality and consistency at the time of each portfolio submission (daily, weekly, and monthly) from a data furnisher.”⁸⁵ According to TransUnion, the company’s database monitoring is performed at different levels, including the field level in order to identify incomplete or inconsistent fields to looking at historical deviation trends on every data file the company receives.⁸⁶ Experian stated that it scrutinizes each data submission using over 300 rules and also uses historical reporting patterns and trends to assess data quality.⁸⁷ Each of the three CRAs reported that any data that does not meet its standards is not uploaded into its database.⁸⁸ In addition to monitoring at the data level, the CRAs conduct audits of their data furnishers to ensure that furnishers are adhering to their guidelines and the FCRA.⁸⁹

3. Disciplinary Actions Taken Against Furnishers

The three largest CRAs also indicated that they take disciplinary actions against furnishers to ensure data accuracy. CRAs suspend or terminate data furnishers for various reasons, which include:

- Reporting false tradelines or furnisher data integrity issues;

⁸¹ Equifax Response to Ranking Member Nelson, at 2 (May 29, 2015).

⁸² NY AG Settlement, *supra* note 29, at 12-13.

⁸³ Equifax Response to Ranking Member Nelson, at Attachment D (May 29, 2015); Experian Response to Ranking Member Nelson, at 2 (May 29, 2015); TransUnion Response to Ranking Member Nelson, at “Credentialing Process Statement” Attachment (June 12, 2015).

⁸⁴ Experian Response to Ranking Member Nelson, at 2 (May 29, 2015).

⁸⁵ Equifax Response to Ranking Member Nelson, at 3 (May 29, 2015).

⁸⁶ TransUnion Response to Ranking Member Nelson, at 3 (June 12, 2015).

⁸⁷ Experian Response to Ranking Member Nelson, at 2 (May 29, 2015).

⁸⁸ Equifax Response to Ranking Member Nelson, at 3 (May 29, 2015); Experian Response to Ranking Member Nelson, at 2 (May 29, 2015); TransUnion Response to Ranking Member Nelson, at 4 (June 12, 2015).

⁸⁹ *See, e.g.*, Experian Response to Ranking Member Nelson, at 2-3 (May 29, 2015); TransUnion Response to Ranking Member Nelson, at 4 (June 12, 2015).

- Failing a security audit or not meeting security standards;
- Failing to respond to requests for credentialing or compliance requirements;
- Failing to meet requirements of membership policies;
- Failing to comply with requirements of the FCRA;
- Reporting data that results in fraudulent or suspect files;
- A lapse in regular reporting; and/or
- A notice of regulatory enforcement against a furnisher.⁹⁰

Between April 2012 and May 2017, Equifax suspended or terminated 150 data furnisher accounts.⁹¹ Equifax explained that it was unable to identify these furnishers by name due to pending law enforcement and judicial action but provided the industries of the furnishers, which included auto dealers, collection agencies, and appliance sales and service providers.⁹² Between January 2015 and June 2016, Experian took disciplinary actions against 557 data furnishers.⁹³ TransUnion took corrective actions against 158 data furnishers between 2013 and 2016.⁹⁴ Experian's and TransUnion's actions involved furnishers from the auto, finance, debt collection, and bank and credit union industries.⁹⁵

Generally, when an action is taken against a furnisher for knowingly providing inaccurate information, all three CRAs state that they remove that furnisher's data from their databases.⁹⁶ In most cases, the CRAs do not contact affected consumers to inform them that this deletion has occurred.⁹⁷

Although the CRAs have taken disciplinary actions against some data furnishers, the number of furnishers the three CRAs have taken actions against seems to be low when compared to the total universe of furnishers that provide data to the CRAs and the prevalence of errors in consumers' credit reports. While the CRAs outlined various procedures intended to ensure data accuracy, the dispute numbers in Section III.A above reveal that existing data accuracy practices are failing to ensure the highest level of accuracy – often placing the burden on consumers to identify and correct the inaccurate information. Furthermore, the CRAs can be more transparent about their data collection practices and their processes for taking actions against furnishers. For

⁹⁰ Equifax Response to Ranking Member Nelson, at 5 (June 30, 2017); Experian Response to Ranking Member Nelson, at 5 (May 19, 2017); TransUnion Response to Ranking Member Nelson, at 1-4 (Jan. 29, 2016).

⁹¹ Equifax Response to Ranking Member Nelson, at 1 (Jan. 15, 2016); Equifax Response to Ranking Member Nelson, at 5 (June 30, 2017).

⁹² *Id.*

⁹³ Experian Response to Ranking Member Nelson, at 5-6 (May 19, 2017). Experian noted that the company “makes every effort to assist furnishers to correct credit reporting deficiencies instead of terminating those furnishers and removing their data from consumer credit reporting. Most credit data are positive, and the removal of such data from credit files may have a negative impact on an affected consumers' [*sic*] credit score.” *Id.* at 5.

⁹⁴ TransUnion Response to Ranking Member Nelson, at 6 (May 26, 2017).

⁹⁵ Experian Response to Ranking Member Nelson, at 5-6 (May 19, 2017); TransUnion Response to Ranking Member Nelson, at 2-4 (Jan. 29, 2016).

⁹⁶ Equifax Response to Ranking Member Nelson, at 1 (Jan. 15, 2016); Experian Response to Ranking Member Nelson, at 2 (Jan. 26, 2016); TransUnion Response to Ranking Member Nelson, at 2-4 (Jan. 29, 2016).

⁹⁷ *Id.*

example, the CRAs refused to identify their furnishers and refused to provide the names of the furnishers they had taken action against, claiming these actions were nonpublic or were subject to pending law enforcement or judicial action.⁹⁸

IV. CONCLUSION

The credit reports compiled by the three major CRAs are often plagued with millions of errors that cost consumers both time and money. When other companies offer poor service, consumers can turn to other providers for better options. Unfortunately, U.S. consumers do not have alternatives to the three largest CRAs, as nearly all major creditors use their data to gauge creditworthiness. Therefore, it is imperative that the CRA dispute resolution process be improved so that consumers are treated fairly and, most importantly, given the credit they deserve.

CRAs must make the dispute resolution process easier for consumers and establish better processes for the removal of inaccurate information. In addition, CRAs must take a tougher stance against furnishers that provide inaccurate information. This must include termination of CRAs' relationships with furnishers that fail to provide accurate data. Furthermore, consumers should regularly check their credit reports with all three major CRAs to determine whether their reports contain any of the tens of millions of errors discovered each year. Once every 12 months, consumers are entitled to one free copy of their reports from all three CRAs. When a CRA fails to correct an error in response to a dispute as required by the FCRA, consumers should file complaints with the FTC and CFPB. It is too early to assess whether the CRAs' settlement with the NY AG will adequately address the fairness and effectiveness of current procedures for resolving consumer disputes regarding errors. In the meantime, the FTC and CFPB must continue their long-standing efforts to protect consumers and ensure that the CRAs are complying with the FCRA.

⁹⁸ See, e.g., Equifax Response to Ranking Member Nelson, at 1 (Jan. 15, 2016); Experian Response to Ranking Member Nelson, at 3 (May 29, 2015).