American Bankers Association®

Memo

July 10, 2019

To: Members of the Committee on Financial Services

From: James Ballentine, Executive Vice President, Congressional Relations & Political Affairs

Re: ABA's Views on July 11 Full Committee Markup

The American Bankers Association (ABA) is pleased to share our views on the bills scheduled for consideration before the Committee on Thursday, July 11, 2019. A series of the bills being discussed amend the Fair Credit Reporting Act and are designed to reform the credit reporting process.

The availability of consistent, accurate credit reports provides tremendous value to consumers and banks alike. For consumers, credit reports provide a compilation of their historical performance on loan obligations which enables them to shop around for credit from any lender — across the country and whether or not that lender knows them or has had any experience with them. Without these reports, consumers would have to provide extensive documentation lender by lender or be limited to financial institutions with whom they currently do or previously have done business. Credit reports open up the options for consumers and ensure that they can shop around in a very competitive market for the best loan or account that serves their needs. For lenders, credit reports allow the evaluation of borrowers' creditworthiness even though the lender has had no prior dealing or relationship with them. Banks and other lenders benefit because an accurate understanding of a credit applicant's credit history means they can evaluate the applicant's ability to repay and have a barometer to determine how and whether to grant credit and at what price.

Credit reports have proven to be good predictors of how consumers will manage their finances in the future. The entire consumer lending system is highly dependent on credit reports, and inaccurate reports undermine the value of the system. For the credit reporting system to remain sustainable, it must be credible and fair, and we share your and consumers' interest in that principle. Indeed, our interests align closely.

Yet, a number of the bills before the Committee would make credit reports less accurate and potentially seriously diminishing the value of credit reports that are the foundation of a fair and fact-based credit market. Ultimately, they could threaten the consumer lending market by reducing access to credit. A significant number of provisions in the bills will make credit reports less predictive and useful by eliminating accurate but negative information. That some of these provisions are highly susceptible to abuse amplifies this effect. The resulting degradation of the reports reduces the ability of lenders to gauge the applicants' creditworthiness and ability to repay, which in turn increases what consumers pay for credit and makes it harder for many consumers, especially the underserved, to get credit. Lenders will also be compelled to find alternatives to credit reports in order to continue lending and to meet bank regulators' underwriting standards and expectations.

ABA believes that H.R. 3622, the Restoring Unfairly Impaired Credit and Protecting Consumers Act (as amended), is highly problematic. The bill reduces the predictability and usefulness of consumer reports by removing accurate but negative information if the borrower ultimately pays the loan and by shortening almost by half the timeframe that negative information can be reported. In addition, the bill creates an easily obtained, unvalidated "identity theft report" which will be used to facilitate false claims of identity theft in order to remove accurate but negative information from credit reports. Already, such false claims are increasingly used not only by those trying to change their negative credit history but also by organized crime. The bill also includes a provision, labeled a "technical correction," that expands civil liability for users of consumer reports. As currently constructed, we oppose H.R. 3622.

H.R.3642, the Improving Credit Reporting for All Consumers Act (as amended), is well-meaning, but requires significant changes. The bill encourages false claims that information in a credit report is inaccurate to help fabricate a better credit history by creating a more onerous, complicated, and repetitive dispute process and requiring credit bureaus and creditors to investigate frivolous claims. As with provisions in other bills under consideration, the elimination of accurate but negative information makes credit reports less useful and predictive, raising consumer prices and reducing access to credit. The bill also allows injunctive relief to require compliance with any Fair Credit Reporting Act requirement. Individual courts, accordingly, would interpret the statute, creating inconsistent and unpredictable legal requirements and business inefficiencies that increase consumer prices and reduce their choices. While this measure is well intended, we oppose the bill as currently constructed.

ABA also has concerns about H.R. 3621, the Student Borrower Credit Improvement Act (as amended). This legislation would require credit bureaus to remove information about delinquencies and defaults on private education loans from credit reports if a borrower makes nine out of ten consecutive monthly payments. This allows borrowers to skip payments for long periods and then erase their delinquencies within nine months, in effect, treating those who repay their loans as agreed, the same as those who did not. It also tempts student loan borrowers to forego making manageable payments based on a rosy outlook that they will in the future be able to "catch up" and have any negative loan performance erased. We note that this proposal also only applies to the *private* student loan market, which is only 8 percent of the student loan market and has far fewer delinquencies than federal student loans, which are not subject to the proposal. While this measure has good intentions and ABA is very supportive of efforts to address student loan debt, we oppose H.R. 3621 as written.

Other consumer credit measures before the Committee, including H.R. 3614, the Restricting Use of Credit Checks for Employment Decisions Act, H.R. 3618, the Free Credit Scores for Consumers Act, and H.R. 3629, the Clarity in Credit Score Formation Act, would benefit from further examination and input from stakeholders. We urge the Committee to continue to work with us and other interested parties to refine these proposals.