

National Consumer Law Center (on behalf of its low-income clients)
Americans for Financial Reform
Center for Digital Democracy
Consumer Action
Consumer Federation of America
Consumer Reports
Demos
NAACP
National Association of Consumer Advocates
National Fair Housing Alliance
Public Citizen
Tennessee Citizen Action
U.S. PIRG
Woodstock Institute

October 21, 2019

Senator Mike Crapo, Chairman
Senator Sherrod Brown, Ranking Member
Senate Committee on Banking, Housing & Urban Affairs
U.S. Senate
Washington, DC 20510

Re: Consumer Credit Control Act (Reed) (support)

Dear Senator Crapo and Senator Brown:

The undersigned consumer groups write in support of the Consumer Credit Control Act, sponsored by Senator Jack Reed. This bill would amend the Fair Credit Reporting Act to give consumers, not credit bureaus or banks, the ultimate decision-making power over our credit reports. It addresses a paradox repeatedly pointed out in the aftermath of the Equifax data breach – that the credit bureaus hold vast amounts of sensitive information about hundreds of millions of American consumers, which they sell for hefty profits, yet we have very little control over how this information is used or disseminated. The Consumer Credit Control Act provides this control to consumers.

The Consumer Credit Control Act requires that credit bureaus first obtain the consumers' affirmative informed consent in order to release their credit reports and scores to lenders, insurers, and others. Requiring consent to access credit reports is neither new nor overly burdensome. For decades, the FCRA has required employers to obtain consumers' consent to use credit and consumer reports for employment purposes. The State of Vermont requires lenders to obtain consumers' consent to access reports, and credit appears not to have been hampered in that state.

As an additional measure to prevent identity theft, Consumer Credit Control Act requires the common-sense step of requiring credit bureaus to verify the consumer's identity when the credit bureaus provide a credit report or score for credit or insurance purposes, using the standard for proper identification in Section 610(a) of the FCRA, 15 U.S.C. § 1681h(a). This is the same section of the FCRA that establishes the proof of identity requirements when consumers order their own credit reports, such as through www.annualcreditreport.com, and the same type of proof would be required. Given that consumers must provide proof of identity to obtain their own credit report, it is illogical and unreasonable for the credit bureaus to argue that it is too burdensome to obtain this same documentation to verify a consumer's identity when credit or insurance is being sought. The goal is the same – to protect the security of the consumer's credit report information and prevent identity theft.

As for claims that this bill would make unavailable web-enabled credit and insurance applications, that is simply not true. Authentication can all be done online, the same way consumers can order their credit report online through www.annualcreditreport.com. If it's good enough for consumers ordering their own reports, it's good enough for them in order to prevent identity theft when applying for credit or insurance online. As for instant retail credit and auto financing, these are in-person transactions where identity validation could be conducted using actual identity documents, such as a driver's license. Finally, credit bureaus can and should make better use of existing authentication technologies and develop new measures to make the process more seamless. For example, they have developed credit "locks" as a new, simpler measure (albeit as a tactic to avoid the potential legal liability associated with security freezes).

As for the proposed revision to FCRA Section 604(c)(3), this is also intended to give consumers more control over their own information. Currently, the ability of lenders and insurers to use credit reports for marketing "firm offers" of credit - which are not very firm at all, being little more than advertising – has resulted in huge amounts of unwanted junk mail and false claims of "preapproval" generated using personal private information. Switching from an opt-out to an opt-in system with affirmative consent doesn't limit options; it gives consumers the right and ability to decide whether to accept use of their credit reports and scores for marketing.

Thank you for your attention. If you have any questions about this letter, please contact Chi Chi Wu (cwu@nclc.org or 617-542-8010).

Sincerely,

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cc: Senator Jack Reed