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Comment Intake
Legal Division Docket Manager
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Defining Larger Participants of the Consumer Reporting Market 2025

The National Consumer Law Center (on behalf of its low-income clients) and Consumer Federation of America appreciate the opportunity to submit these comments on the Consumer Financial Protection Bureau's advance notice of proposed rulemaking (ANPR) on whether to propose a rule to amend the test to define larger nonbank participants in the consumer reporting market.¹ Entities defined as larger participants consumer reporting agencies (CRAs) are potentially subject to supervision by the CFPB.

Summary

We oppose changing the definition of larger participant in a way that would reduce the number of entities that qualify, which would do *nothing* to achieve the CFPB's stated goals of reducing compliance burdens or avoiding the diversion of limited CFPB resources. The CFPB is not required to and does not conduct examinations of all larger participants, and many are never examined at all. The CFPB conducts only a limited number of examinations each year, and the CFPB can limit the resources devoted to supervision and the number of companies examined without changing the larger participant definition.

But amending the definition would have harms, including depriving the CFPB of the flexibility to examine a company if problems arise or to spot check compliance by entities of different size. The CFPB would have less information about market practices and compliance challenges by mid-sized companies, making it harder to tailor regulation to them. Companies would have less incentive to respond to consumer complaints or to ensure that they are complying with the law. Law-abiding companies would be harmed by unfair competition. Companies that escape

¹ CFPB, Defining Larger Participants of the Consumer Reporting Market, 90 Fed. Reg. 38,409 (Aug. 8, 2025).

supervision, a confidential, non-adversarial compliance tool, might instead face enforcement actions.

Reducing oversight in the consumer reporting market is problematic because of the importance of this data to the financial lives of Americans, and the frequency of complaints against CRAs. Credit reports and specialty consumer reports may determine whether a consumer can access credit, bank accounts, insurance, government benefits, rental housing, or even a job. Yet too often they are full of erroneous, misleading, or incomplete information. Worse yet, the dispute resolution system mandated by the Fair Credit Reporting Act (FCRA) often fails to adequately address these errors because CRAs conduct inadequate, perfunctory investigations.

I. Supervision is an important, confidential, and cooperative compliance tool.

Supervision is an important tool that helps the CFPB ensure compliance with the law, stop problems and potential problems, and identify emerging issues. Supervision is a more cooperative, less adversarial approach than an enforcement action. The typical result of an examination is a report with items to address. Most examinations do not result in enforcement actions.

Supervision is confidential. Neither the CFPB's findings nor the action that a company takes in response are public. Even the fact that a company is subject to examination is confidential. Enforcement actions, in contrast, are very public. Without supervision as an option, when the CFPB receives complaints or otherwise hears of problems, it would have to use more adversarial and public tools including launching a formal investigation, issuing subpoenas and civil investigative demands, and filing a public lawsuit in court. Even if the matter is resolved without litigation, consent orders from the Bureau are also public.

Supervision helps the CFPB and companies identify and correct small problems before they become big ones. The CFPB can identify compliance oversight weaknesses before they result in legal violations, or small issues before they harm even more consumers or warrant an enforcement action.

Supervision offers benefits to companies that are being examined. Companies have the opportunity to fix problems and improve their compliance. If problems go unaddressed, the company can still face enforcement by a state regulator or attorney general, or private litigation.

Supervision helps to keep an entire market safe and free of legal violations or unfair, deceptive or abusive practices. Work to ensure compliance with the law across a market promotes fair competition by requiring everyone to play by the same rules and preventing law-abiding companies from having to compete with those who violate the law or take advantage of consumers.

In the consumer reporting market, both banks and nonbanks rely on the data and analytics provided by CRAs. Accurate, predictive, and relevant information is necessary for a properly

functioning financial services market. All banks are supervised either by the CFPB or by other federal banking regulators, but no federal agency other than the CFPB has the authority to supervise nonbanks. If the CFPB does not have jurisdiction to supervise a nonbank company, there would be no potential for federal supervision at all.

States are not an adequate substitute for the CFPB in the supervision of nonbank companies. Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act and gave the CFPB the mandate to supervise nonbank companies because of fatal gaps in consumer protection oversight of those companies. States do not possess the level of expertise in federal consumer protection laws that the CFPB's supervision team has developed, and virtually none of them has the resources to examine for compliance with those laws. Most do not have robust supervision for the consumer reporting market at all. Even if a few states were able to conduct robust oversight, that would leave consumers in most other states exposed to legal violations and unfair practices.

The CFPB has said that it will prioritize work to protect servicemembers and veterans. But without supervision, the CFPB will be far less likely to spot problems affecting our military and will have fewer options to address violations.

Moreover, because these nonbanks are generally multi-state actors, having CFPB oversight is more efficient, more effective, and more likely to happen than a series of individual state regulators separately attempting to address the problems the nonbank causes to residents of any particular state.

II. Changing the definition of larger participants will hamper the CFPB's flexibility to respond to problems, make compliance with the law harder for companies, and encourage risky behavior.

The CFPB stated that it is considering reducing the number of companies that are deemed to be larger participants because:

The Bureau is concerned that the benefits of the current threshold may not justify the compliance burdens for many of the entities that are currently considered larger participants in this market, and that the current threshold may be diverting limited Bureau resources to determine whom among the universe of providers may be subject to the Bureau's supervisory authority and whether these providers should be examined in a particular year.

90 Fed Reg. at 38,409

But the current definition does not impose significant, unwarranted compliance burdens on companies that they would not otherwise have. Both larger participants and smaller firms need to receive advice and counsel about how to comply with the consumer financial laws examined and enforced by the Bureau. Removing supervision does not mean that their obligation to

comply with the law is now absent. It simply increases the possibility that they can violate the law without being caught.

Similarly, the CFPB has ample ability to decide how to allocate its limited resources without changing the definition of larger participant. The definition merely gives the CFPB the *option* of supervising a company. We understand that, even under the current definitions, many if not most of the companies on the smaller end of the spectrum, and even some of the larger ones, have *never* been examined. The CFPB's supervision program has already shrunk dramatically (if it is operating at all) under current leadership, and the reduction in the CFPB's Federal Reserve funding cap will also likely require cutbacks in the supervision programs for both banks and nonbanks. Changing the definition of a larger participant does not constrain the CFPB's discretion in how much of its resources it devotes to supervision and which companies it supervises. If the CFPB feels that supervision of companies below some threshold is not currently worth the benefit to consumers or the burden to companies, it can stop examining them.

While changing the definition of larger participant will not address the burdens the CFPB lists, it will pose several problems. If the CFPB receives a slew of complaints about a particular company or an emerging threat that it has not been examining, it currently has the option of using supervision to see what is going on. Keeping the existing definition under the current rules gives the CFPB flexibility about the best way to address the most significant risks to consumers.

Conversely, if a company knows that it cannot be supervised, then it will have less incentive to address consumer complaints or problems that could trigger a supervisory exam. The CFPB's complaint system is a cost-effective way to resolve individual issues, but it could become less effective as a company would feel less compulsion to address a complaint that has been referred to it.

Companies that cannot be supervised could be more willing to take risks and skirt the law. The obligation to comply with consumer financial protection laws will remain, as will the risk of federal, state or private enforcement and the need for a compliance program. But some companies may gamble on not being caught if there is no potential of being supervised by the CFPB.

Violations that occur between 2025 to 2029 can still be the subject of enforcement actions for years to come, and having a smaller set of larger participants examined now could backfire. A change of CFPB leadership could result in more enforcement actions of the companies that escaped supervision – either because the companies became too lax, or because small problems were not addressed early. New leadership will not have to change the larger participant rule to file enforcement actions.

It is also unwise for the CFPB to relax potential oversight over the smaller large participants. The largest companies tend to have the most robust and sophisticated compliance programs. Those with fewer resources may need more help spotting problems, and benefit from free

advice given through supervision exams and from publicly available information in the Supervisory Highlights that alert them to compliance issues.

Maintaining the authority to occasionally spot-check companies on the lower end can help the CFPB determine if there are more systemic issues affecting that segment of the marketplace. The CFPB might realize that those companies need more guidance or other assistance to help them comply with the law.

The CFPB can even reduce overall regulatory burden by having a better understanding of how mid-size companies operate, how they differ from the largest companies, and the compliance issues that they face. Those insights can help the CFPB to develop more appropriate regulations tailored to those companies.

III. Supervision is important to the consumer reporting market

Consumer reporting serves an incredibly important role in the financial lives of consumers. Credit reports and specialty consumer reports can determine whether a consumer can access credit, bank accounts, insurance, government benefits, rental housing, or even a job. It is also a market rife with abuses, problems, and dysfunction. Credit reports and specialty consumer reports are too often full of erroneous, misleading, or incomplete information. The dispute resolution system designed as a safety net to address errors fails to properly function because CRAs conduct inadequate, perfunctory investigations.²

Complaints about consumer reporting have made up the largest share of complaints to the CFPB for many years. In 2024, there were over 2.7 million such complaints out of the 3.2 million complaints submitted to CFPB or about 85 percent.³ The overwhelming majority of complaints about consumer reporting (2.5 million or 92%) were generated by the Big Three credit bureaus, *i.e.*, Equifax, Experian and TransUnion, known technically as the nationwide CRAs.⁴ As discussed below, we assume that the nationwide CRAs would still be covered even if the CFPB raises the threshold for coverage as a larger participant from \$7 million to \$41 million in receipts from consumer reporting. It is simply unthinkable that the nationwide CRAs, which essentially control the financial destinies of nearly every adult American in this country, would not be considered larger participants in the consumer reporting market.

However, other specialty CRAs that operate in the financial services sector would likely be excluded by a higher threshold for defining who is a larger participant. For example, CRAs used by depository institutions to screen applicants for a deposit account, *i.e.*, Early Warning Services (EWS) and ChexSystems, might no longer be considered larger participants. EWS has over

² Chi Chi Wu, Michael Best & Sarah Mancini, National Consumer Law Center, Automated Injustice Redux: Ten Years after a Key Report, Consumers Are Still Frustrated Trying to Fix Credit Reporting Errors (Feb. 25, 2019), www.nclc.org/resources/automated-injustice-redux-ten-years-after-a-key-report-consumers-are-still-frustrated-trying-to-fix-credit-reporting-errors/

³ CFPB, Consumer Response Annual Report: January 1 - December 31, 2024, May 1, 2025, https://files.consumerfinance.gov/f/documents/cfpb_cr-annual-report_2025-05.pdf.

⁴ *Id.*

3,500 complaints against it stemming from consumer reporting during this past year, while the parent of ChexSystems (Fidelity National Information Systems) has 4,500 such complaints. Complaints include:

Table 1: Issues Identified in Consumer Reporting Complaints Against EWS and ChexSystems Filed with the CFPB from 9/7/2024 - 9/7/2025 by Number of Complaints⁵

Complaint	EWS	ChexSystems/FIS
Incorrect information on your report	2,260	2,343
Improper use of your report	594	970
Problem with a company's investigation into an existing problem	347	752
Problem with fraud alerts or security freezes	111	209
Problem with a company's investigation into an existing issue	96	140
Unable to get your credit report or credit score	88	105

Problems with EWS and ChexSystems have been ongoing for years, if not decades. These problems were discussed at length in a 2015 report from NCLC and Cities for Financial Empowerment Fund,⁶ as well a 2021 report from the San Francisco Office of Financial Empowerment,⁷ and include:

- **Lack of consistency.** ChexSystems and EWS do not have standardized definitions of what constitutes “fraud,” “account abuse,” or other negative events, and when to report them. This leads to inconsistency of information across financial institutions, as banks both report events differently and are unsure how to interpret the reports they receive.
- **Accuracy.** Victims of identity theft, scams, or other forms of fraud on prior accounts are mistakenly identified as the perpetrator of the fraud
- **Poor transparency.** How banks both report and use information from account screening CRAs remains largely mysterious - “an almost completely opaque system”

⁵ CFPB, Consumer Complaint Database, available at: <https://www.consumerfinance.gov/data-research/consumer-complaints/search/> (last visited September 7, 2025).

⁶ Chi Chi Wu, National Consumer Law Center (NCLC) and Katie Platt, The Cities for Financial Empowerment Fund (CFE), “Account Screening Consumer Reporting Agencies: A Banking Access Perspective,” October 2015, <https://www.nclc.org/resources/account-screening-consumer-reporting-agencies-a-banking-access-perspective/>.

⁷ San Francisco Office of Financial Empowerment, BLACKLISTED: How ChexSystems Contributes to Systemic Financial Exclusion, June 2021, <https://www.sfgov.org/ofe/sites/default/files/2021-06/Blacklisted-How%20ChexSystems%20Contributes%20to%20Systematic%20Financial%20Exclusions%20-%20FINAL.pdf>.

and where most consumers do not “understand that they have a ChexSystems record or the reason behind that record.”⁸

- **Inadequate error resolution.** Although the FCRA requires CRAs to conduct a reasonable investigation in response to consumer complaints, account screening CRAs often fail to do so -- “it is nearly impossible for a consumer to resolve a ChexSystems record via a dispute.”⁹

Another specialty CRA that could be excluded from supervision is LexisNexis, which is an incredibly problematic data broker that has caused numerous problems for consumers, including:

- The use of LexisNexis’s Accurint product by the Social Security Administration resulted in potentially thousands of SSI recipients having their benefits unjustifiably terminated due to Accurint wrongfully reporting them as the owners of non-home real estate caused by sloppy data practices.¹⁰
- LexisNexis regularly sells data for uses that are covered by the FCRA, such as employment, government benefits, debt collection, and even credit granting, but fails to treat the data as a consumer report or comply with the FCRA.¹¹

LexisNexis has nearly 14,700 complaints against it from the past year over consumer reporting issues.

Table 1: Issues Identified in Consumer Reporting Complaints Against LexisNexis Filed with the CFPB from 9/9/2024 - 9/9/2025 by Number of Complaints¹²

Complaint	LexisNexis
Incorrect information on your report	8,661
Improper use of your report	2229
Problem with a company's investigation into an existing problem	2551
Problem with fraud alerts or security freezes	738

⁸ *Id.* at 7.

⁹ *Id.*

¹⁰ NCLC, Mismatched and Mistaken: How the Use of an Inaccurate Private Database Results in SSI Recipients Unjustly Losing Benefits, Apr. 14, 2021, <https://www.nclc.org/resources/mismatched-and-mistaken-how-the-use-of-an-inaccurate-private-database-results-in-ssi-recipients-unjustly-losing-benefits/>.

¹¹ *Id.*; Berry v. LexisNexis Risk & Information Analytics Group, Inc., 2014 WL 4403524 (E.D. Va. Sept. 5, 2014). See generally, NCLC, Comments in Response to CFPB Request for Information Regarding Data Brokers and Other Business Practices Involving the Collection and Sale of Consumer Information, Docket No. CFPB–2023-0020, pp. 27-31, July 14, 2023, <https://www.nclc.org/wp-content/uploads/2023/07/NCLC-Comments-to-CFPB-RFI-on-Data-Brokers-Chi-Chi-Wu.pdf>.

¹² CFPB, Consumer Complaint Database, available at: <https://www.consumerfinance.gov/data-research/consumer-complaints/search/> (visited September 9, 2025).

Problem with a company's investigation into an existing issue	193
Unable to get your credit report or credit score	282

Another specialty CRA that has a huge impact on the financial lives of consumers is CoreLogic Credco, which is one of the largest reseller CRAs of “tri-merge” credit reports, *i.e.* reports that combine information from all three of the nationwide CRAs. A tri-merged report is required for the vast majority of mortgages, including any mortgage guaranteed by Fannie Mae, Freddie Mac, the Federal Housing Administration, and others. CoreLogic has over 2,200 complaints against it stemming from consumer reporting during this past year.¹³

Coverage of these types of CRAs as larger participants is important because they have an enormous impact on the financial lives of consumers. For example, the vast majority of banks and credit unions use either ChexSystems or EWS or both to screen applicants for bank accounts. Negative information on a consumer report from one of the CRAs can result in a consumer being shut out of the banking system. Thus, it is critically important that both of these CRAs be supervised to ensure their information is accurate, complete, and not misleading.

CFPB supervision of the consumer reporting market is also critical for financial services providers. Accurate, predictive, and relevant information is necessary for a properly functioning financial services market. Banks and nonbanks rely on the data and analytics provided by CRAs. If the CFPB is able to supervise banks for furnishing to CRAs, but not CRAs when they use policies and procedures that lead to legal violations, it will result in the compliance burden falling on banks even when it would be more efficient or effective to require the CRAs to change their practices. For example, the failure of account screening CRAs to have a standardized definition of what constitutes “suspected fraud” results in consumers sometimes being tagged for fraud when they are the victim of fraud. Standardized definitions and a common reporting format are far more efficient ways to address the issue than attempting to fix it individually at each bank that furnishes information to ChexSystems or EWS.

IV. Important and problematic CRAs will be exempt from supervision with higher thresholds in the consumer reporting market

The ANPR proposes increasing the threshold for consumer reporting from \$7 million in receipts from consumer reports to \$41 million, which would potentially leave as few as six (6) CRAs as larger participants in this market¹⁴ and remove about 30 companies from coverage.¹⁵ As

¹³ *Id.*

¹⁴ 90 Fed. Reg. at 38,411 (“Based on the Bureau’s supervisory experience, the Bureau estimates that increasing the annual receipts threshold to match the SBA annual revenue threshold of \$41 million would leave at least six larger participants in the market”).

¹⁵ *Id.* (“There are about 30 firms as of 2022 ... with an annual revenue that falls between the threshold of \$7 million in annual receipts set by the Consumer Reporting Larger Participant Rule and the threshold of \$41 million.”)

discussed above, we assume that three of the six would be the nationwide CRAs, since we know that they all earned well over that amount in revenue in 2024.

- Equifax – \$5.68 billion in revenue¹⁶
- Experian - \$7.5 billion in revenue¹⁷
- TransUnion - \$4.2 billion in revenue¹⁸

While these 2024 figures may include revenue from business units other than consumer reporting or from sales outside the United States, with billions in revenue, it is almost certain that the nationwide CRAs earn well over \$41 million in sales for credit reports and other types of consumer reports.

The identity of the other three CRAs who would be larger participants is uncertain. However, we believe that increasing the threshold for supervision from \$7 million to \$41 million would exclude a number of CRAs that can have a huge impact on a consumer's financial life. The following is a list of other important CRAs that operate in the financial services sector and might be currently considered larger participants with a \$7 million threshold.

- Other nationwide CRAs
 1. Innovis – a subsidiary of CBC Companies, Inc, now known as Informativ, which also owns other databases/CRAs (CreditDriver, Dealer Safeguard Solutions).¹⁹
- Subprime credit CRAs
 2. Clarity – owned by Experian
 3. FactorTrust – owned by TransUnion
 4. DataX – owned by Equifax
 5. Microbilt²⁰
 6. TeleTrack – owner by Equifax
- Bank account screening CRAs
 7. Early Warning Services – co-owned by seven of the largest banks in the US.²¹

¹⁶ Equifax, Letter to Shareholders, <https://d1io3yog0oux5.cloudfront.net/f1142adeb67db4b872fc49a8860a8974/equifax/db/2055/19507/file/Shareholder+Letter.pdf>, (visited Sept 7, 2025) Equifax's Workforce Solutions unit (ie The Work Number) alone earned 2.43 billion in revenue. *Id.*

¹⁷ Press Release, Experian, Strong performance and excellent strategic progress in FY25, May 14, 2025, <https://www.experianplc.com/newsroom/press-releases/2025/full-year-results-fy25>.

¹⁸ Press Release, TransUnion Announces Fourth Quarter and Full-Year 2024 Results and Refreshed Capital Allocation Framework, Feb. 13, 2025, <https://newsroom.transunion.com/transunion-announces-fourth-quarter-and-full-year-2024-results-and-refreshed-capital-allocation-framework/>.

¹⁹ Informativ, About Us, https://creditbureauconnection.com/resources/about_us.php (viewed September 9, 2025). The revenues of CBC Companies/Informativ are not publicly available.

²⁰ As a private company, Microbilt's revenues are not reported. In 2021, the Securities and Exchange Commission sued Microbilt and its principals for fraud. Press Release, SEC Charges Private Fund Manager, Consumer Credit Company, and Three Individuals with Fraudulently Raising Over \$73 Million from Investors, June 25, 2021, <https://www.sec.gov/enforcement-litigation/litigation-releases/lr-25124>.

²¹ https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-companies_list_2025.pdf

8. ChexSystems – owned by Fidelity National Information Systems, which had \$10 billion in revenue in 2024.²²
- Reseller/Tri-merge CRAs
 9. CoreLogic Credco – part of a multi-billion information services provider now known as Cotality.²³
- Other
 10. LexisNexis, a subsidiary of global information giant RELX, which earned nearly \$12.8 billion in 2024.²⁴

In some cases, such as Cotality/CoreLogic, the company itself is extremely large, even if its revenues specifically from consumer reporting may or may not be under \$41 million. In other cases, such as EWS, a smaller company that is a CRA is owned by larger multinational corporations. ***Excluding these companies as small businesses is not only unjustified but frankly absurd, as they have or have access to more than adequate resources to respond to the requirements of supervision.***

Note that many of these companies are owned by or otherwise affiliated with other CRAs, such as most of the subprime credit CRAs. The current regulation requires that the annual receipts of affiliates are aggregated in order to determine whether their revenues reach the threshold.²⁵ There is no good reason to change this requirement for aggregated receipts.

* * * *

For these reasons, we urge the CFPB to keep the current threshold of \$7 million in receipts from consumer reports in order to be considered as a larger participant in the consumer reporting market. If you have any questions about these comments, please contact Chi Chi Wu at [ccwu@nclc.org](mailto:cwu@nclc.org).

Respectfully submitted,

National Consumer Law Center (on behalf of its low-income clients)
Consumer Federation of America

²² <https://www.investor.fisglobal.com/news-releases/news-release-details/fis-reports-full-year-2024-results-and-2025-outlook-confirms>.

²³ CoreLogic was formerly a publicly traded company that was purchased for \$6 billion and taken private in 2021. CoreLogic to be acquired by PE firms for \$6bn, *Financier Worldwide Magazine*, April 2021, <https://www.financierworldwide.com/corelogic-to-be-acquired-by-pe-firms-for-6bn>. In the last year of being a publicly traded company, CoreLogic earned \$1.6 billion in revenue. CoreLogic, Form 10K/A: Annual Report Pursuant to Section 13 or 15(D) Of The Securities Exchange Act Of 1934 for the Fiscal Year Wnded December 31, 2020, <https://www.sec.gov/ix?doc=/Archives/edgar/data/0000036047/000119312521140739/d170712d10ka.htm>

²⁴ RELX, 2024 Annual Report, p.2, <https://www.relx.com/~media/Files/R/RELX-Group/documents/reports/annual-reports/relx-2024-annual-report.pdf> (RELX earned 9.434 billion in British pounds in 2024, or about \$12.77 billion in US Dollars).

²⁵ 12 C.F.R. § 1090.104(a)(iii)(A).