

October 6, 2023

*Submitted Via Electronic Mail*

Comment Intake  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, D.C. 20552  
[CFPB\\_consumerreporting\\_rulemaking@cfpb.gov](mailto:CFPB_consumerreporting_rulemaking@cfpb.gov)

Re: Request for a Comment Extension on the Small Business Advisory Review Panel for Consumer Reporting Rulemaking Outline of Proposals and Alternatives Under Consideration

Dear Director Chopra:

The Association of Credit and Collection Professionals (ACA),<sup>1</sup> the American Financial Services Association (AFSA),<sup>2</sup> the American Fintech Council (AFC),<sup>3</sup> The Clearing House (TCH),<sup>4</sup> the Consumer Bankers Association (CBA),<sup>5</sup> the Center for Capital Markets Competitiveness (CCMC),<sup>6</sup> the Consumer Data Industry Association (CDIA),<sup>7</sup> the Electronic Transactions

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<sup>1</sup> Founded in 1939, ACA brings together third-party collection agencies, law firms, asset buying companies, creditors, and vendor affiliates, representing more than 230,000 industry employees. ACA establishes ethical standards, produces a wide variety of products, services, and publications, and articulates the value of the accounts receivable management industry to businesses, policymakers, and consumers.

<sup>2</sup> Founded in 1916, AFSA is the national trade association for the consumer credit industry, protecting access to credit and consumer choice. AFSA members provide consumers with many kinds of credit, including traditional installment loans, mortgages, direct and indirect vehicle financing, payment cards, and retail sales finance.

<sup>3</sup> AFC is the premier trade association representing the largest financial technology (Fintech) companies and the innovative banks that power them. Our mission is to promote an innovative, transparent, inclusive, and customer-centric financial system by supporting responsible innovation in Fintech and encouraging sound public policy. AFC members are at the forefront of fostering competition in consumer finance and pioneering ways to better serve underserved consumer segments and geographies. Our members are also lowering the cost of financial transactions, allowing them to help meet demand for high-quality, affordable products.

<sup>4</sup> The Clearing House Association, L.L.C., the country's oldest banking trade association, is a nonpartisan organization that provides informed advocacy and thought leadership on critical payments-related issues. Its sister company, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the U.S., clearing and settling more than \$2 trillion each day.

<sup>5</sup> CBA is the only national trade association focused exclusively on retail banking. Established in 1919, the association is a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly \$3 trillion in consumer loans, and provide \$270 billion in small business loans.

<sup>6</sup> CCMC's mission is to advance America's global leadership in capital formation by supporting diverse capital markets that are the most fair, transparent, efficient, and innovative in the world. CCMC advocates on behalf of American businesses to ensure that legislation and regulation strengthen our capital markets allowing businesses—from the local flower shop to a multinational manufacturer—to mitigate risks, manage liquidity, access credit, and raise capital.

<sup>7</sup> CDIA is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening

Association (ETA),<sup>8</sup> the Innovative Lending Platform Association (ILPA),<sup>9</sup> the Mortgage Bankers Association (MBA),<sup>10</sup> the National Consumer Reporting Association (NCRA),<sup>11</sup> the Online Lenders Alliance,<sup>12</sup> and the Professional Background Screening Association (PBSA)<sup>13</sup> write to respectfully request a 30-day extension of the current comment period for comments to the Small Business Regulatory Enforcement Fairness Act (“SBREFA”) outline for the Consumer Reporting Rulemaking<sup>14</sup> (“SBREFA outline”). The aforementioned trade associations each represent entities covered, or potentially covered, by the broad scope of coverage proposed in the SBREFA outline.

Although the Consumer Financial Protection Bureau (“Bureau”) is not obligated to take comment from entities that are not designated as Small Entity Representatives (“SERs”), the Bureau has historically accepted feedback from non-SERs, and we thank the Bureau for continuing to accept comments from non-SERs on their SBREFA outlines. The Bureau’s practice of accepting comments on the SBREFA outline from non-SERs ensures that the Bureau has

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companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals, and to help businesses, governments and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition and expanding consumers’ access to financial and other products suited to their unique needs.

<sup>8</sup> ETA is the world’s leading advocacy and trade association for the payments industry. Our members span the breadth of significant payments and fintech companies, from the largest incumbent players to the emerging disruptors in the U.S. and in more than a dozen countries around the world. ETA members make commerce possible by processing approximately \$44 trillion annually in purchases and P2P payments worldwide and deploying payments innovation to merchants and consumers.

<sup>9</sup> ILPA is a leading trade organization representing a diverse group of online lending and service companies serving small businesses. United by a shared commitment to the health and success of small businesses in America, the ILPA is dedicated to advancing best practices and standards that support responsible innovation and access to capital for small businesses.

<sup>10</sup> MBA is the national association representing the real estate finance industry, an industry that employs more than 300,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation’s residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,200 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field.

<sup>11</sup> NCRA is a national trade organization founded in 1992 consisting of consumer reporting agencies (CRAs) and associated professionals who provide products and services to hundreds of thousands of property managers, as well as mortgage lenders, who use consumer reports for residential housing leasing and lending decisions.

<sup>12</sup> OLA represents the growing industry of innovative companies developing and deploying new financial technology, including proprietary underwriting methods, sophisticated data analytics and non-traditional delivery channels, to offer online consumer loans and related products and services.

<sup>13</sup> PBSA is an international trade association of over 700 member companies that provide tenant, employment, and volunteer background screening and related services to virtually every industry around the globe. The consumer reports prepared by PBSA’s background screening members are used by property managers, employers, government entities, and volunteer organizations every day to help ensure that communities are safe for all who reside, visit, or work there. PBSA members range from large background screening companies to individually-owned businesses, each of which must comply with applicable law, including how they obtain, handle, or use public record data.

<sup>14</sup> Consumer Financial Protection Bureau, *Small Business Advisory Review Panel for Consumer Reporting Rulemaking - Outline of Proposals and Alternatives under Consideration* (Sept. 15, 2023), available at [https://files.consumerfinance.gov/f/documents/cfpb\\_consumer-reporting-rule-sbrefa\\_outline-of-proposals.pdf](https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-rule-sbrefa_outline-of-proposals.pdf).

necessary data and information on potential market impacts and potential unintended consequences to help inform future rulemakings. However, the comment period provided for this SBREFA outline of 40 days (released publicly on September 21, 2023, with comments due October 30, 2023, which was extended to November 6, 2023 for SERs) is substantially shorter than the comment period for other recent SBREFA outlines. For example, the comment period for the Small Business Advisory Review Panel for the Personal Financial Data Rights rulemaking under the Dodd-Frank Act Section 1033<sup>15</sup> was 90 days (released October 27, 2022, comments due January 25, 2023), the comment period for the Small Business Advisory Review Panel for the Automated Valuation Model (AVM) rulemaking<sup>16</sup> was 79 days (released February 23, 2023, comments due May 13, 2023), and the comment period for the Small Business Advisory Review Panel for the Small Business Lending Data Collection rulemaking under the Dodd-Frank Act Section 1071<sup>17</sup> was 90 days (released September 15, 2020, comments due December 14, 2020).

Our concerns about the short time period to provide feedback are amplified by the fact that this rulemaking represents the first discretionary amendments<sup>18</sup> to Regulation V since authority was transferred to the Bureau in 2010.<sup>19</sup> The SBREFA outline proposes, and requests comment on, novel and sweeping changes to Regulation V, including wholesale change to the definition of a “consumer report” and “consumer reporting agencies” (CRAs) under the rule. Determining the impact of the expansive proposed amendments to Regulation V on CRAs, furnishers, and consumers – including providing the data requested by the SBREFA outline – will take considerable time. Further, because of the broad and, at times, unspecific nature of the proposals in the SBREFA outline, additional time is required for entities to ascertain how the proposals may impact consumers and the industry in unanticipated ways, which is extremely important for complete, thorough, and well-supported policymaking.

A rush to finalize significant changes to a long-standing rule without providing sufficient time for commenters to provide the requested data and other information on consumer and market impacts would invite scrutiny and the likelihood of future revision, which would benefit no one and would lead to significant market uncertainty. We respectfully request that the Bureau give

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<sup>15</sup> Consumer Financial Protection Bureau, *Small Business Advisory Review Panel for Required Rulemaking on Personal Financial Data Rights* (Oct. 27, 2022), available at [https://files.consumerfinance.gov/f/documents/cfpb\\_data-rights-rulemaking-1033-SBREFA\\_outline\\_2022-10.pdf](https://files.consumerfinance.gov/f/documents/cfpb_data-rights-rulemaking-1033-SBREFA_outline_2022-10.pdf)

<sup>16</sup> Consumer Financial Protection Bureau, *Small Business Advisory Review Panel for Small Business Advisory Review Panel for the Automated Valuation Model (AVM) Rulemaking* (Feb. 23, 2022), available at [https://files.consumerfinance.gov/f/documents/cfpb\\_avm\\_outline-of-proposals\\_2022-02.pdf](https://files.consumerfinance.gov/f/documents/cfpb_avm_outline-of-proposals_2022-02.pdf)

<sup>17</sup> Consumer Financial Protection Bureau, *Small Business Advisory Review Panel for Small Business Lending Data Collection Rulemaking* (Sept. 15, 2020), available at [https://files.consumerfinance.gov/f/documents/cfpb\\_1071-sbreffa\\_outline-of-proposals-under-consideration\\_2020-09.pdf](https://files.consumerfinance.gov/f/documents/cfpb_1071-sbreffa_outline-of-proposals-under-consideration_2020-09.pdf)

<sup>18</sup> Amendments to Regulation V were made in 2022 to implement new section 605C of the Fair Credit Reporting Act (FCRA), added by the National Defense Authorization Act for Fiscal Year 2022 (2022 NDAA), Pub. L. 117-81, section 6102, 135 Stat. 2383-84 (2021) (to be codified at 15 U.S.C. 1681c-3), <https://www.congress.gov/117/plaws/publ81/PLAW117publ81.pdf>.

<sup>19</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111-203, section 1088, 124 Stat. 1376, 2086 (2010).

industry and the public sufficient time to provide data-driven comments that will promote sound and durable policy decisions by granting a 30-day extension to the comment period.

Thank you for your consideration of this request.

Sincerely,

The Association of Credit and Collection Professionals  
The American Fintech Council  
The American Financial Services Association  
The Center for Capital Markets Competitiveness  
The Clearing House Association, L.L.C.  
The Consumer Bankers Association  
The Consumer Data Industry Association  
The Electronic Transactions Association  
The Innovative Lending Platform Association  
The Mortgage Bankers Association  
The National Consumer Reporting Association  
The Online Lenders Alliance  
The Professional Background Screening Association