February 26, 2019

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
2129 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
4340 O'Neill House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the Consumer Bankers Association (CBA), I write to share our comments regarding today's hearing, "Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System," which seeks to review recently released discussion drafts related to consumer credit reporting. We appreciate the committee's attention to ensuring the credit reporting system works well for American consumers and we are committed to closely reviewing the details of the legislation with this goal in mind. However, upon early review, we are seriously concerned the draft Comprehensive Consumer Credit Reporting Reform Act will have unintended effects on the availability of consumer credit. Additionally, we question the need for the draft Protecting Innocent Consumers affected by a Shutdown Act as our members worked closely with their customers to obtain necessary financing and avoid adverse actions during the recent government shutdown.

CBA is the voice of the retail banking industry whose products and services provide access to credit for consumers and small businesses. Our members operate in all 50 states, serve more than 150 million Americans, and collectively hold two-thirds of the country's total depository assets.

Comprehensive Consumer Credit Reporting Reform Act

There has been increased attention to the business of credit reporting in light of recent breaches. Included in the Comprehensive Consumer Credit Reporting Reform Act draft bill are numerous sections which provide greater scrutiny over adverse credit events and the ability of consumers to remove such events from their credit reports.

It is important that a consumer's credit report be an up-to-date, accurate, and complete credit history for lenders to determine a consumer's ability to repay a loan. Lenders consider many factors when determining credit risk and may weigh credit data differently depending on their individual underwriting models. However, lenders are unable to use their discretion to properly identify and manage risk when the use of certain data is restricted. For instance, the bill's reduction in the amount of time adverse information can stay on reports and the ability to clear certain adverse information harms lenders' ability to make informed credit decisions. Lenders constantly update credit models to paint the most complete picture of a consumer's creditworthiness, and overly-restrictive limits on the data lenders may use to make credit decisions will harm both lenders and consumers throughout the credit process.

Additionally, there could be safety and soundness implications of this bill as lenders make loans with less information, leading to loans that may be at greater risk for default. Lending involves risk; sound underwriting

practices insulate financial institutions from excessive risks that lead to increased credit losses. Reduced credit losses lead to safer and better-priced products for those consumers who can truly manage them.

This legislation also adds considerable new compliance burdens by creating an obligation on furnishers to retain specific records on consumers, mandating new and potentially frequent disclosures on the furnishing of adverse information, and establishing an expanded dispute resolution processes. Additionally, this bill would permit frivolous complaints and litigation to tie up the dispute resolution process. These provisions will ultimately lead to worse credit modeling, which in turn will result in less reliable decisions on consumers' creditworthiness, putting their financial well-being at risk.

Private Student Loan Rehabilitation Programs

Title III of the bill related to private student loan rehabilitation is unnecessary given the very strong performance of private student loans (less than 2% charge off) and the recent enactment of the Economic Growth, Regulatory Relief and Consumer Protection Act, which created a process for such programs. This section of the bill would layer new student loan rehabilitation provisions over the existing framework, while granting broad new authority to the CFPB to implement the programs and determine the amount of borrower payments.

Student loan debt in America stands at $1.5 trillion – 92% of that total is held by the federal government and the remaining 8% is held by private lenders. Ninety-eight percent of private student loans are being successfully repaid due to strong upfront disclosures and underwriting as well as targeted repayment assistance tools that effectively help the very small subset of private loan customers experiencing financial distress avoid default. While well-intended, Title III of this legislation could in fact work to undermine existing repayment assistance tools as lenders might have to divert financial and organizational resources to manage the mandatory loan rehabilitation programs. It would be unfortunate if private student loan borrowers were steered into programs that reverse default at the price of access to programs that prevent default in the first place. Federal student loan borrowers, on the other hand, are struggling – collectively experiencing double digit delinquency and default rates. The fact is there is a federal student loan crisis and this legislation diverts attention away from addressing the roots of the problem.

Furthermore, Title III would drastically limit the information available to lenders regarding student loan accounts, thereby making student lending riskier and reducing access to credit for higher education. When lenders cannot accurately assess the credit risk associated with consumers seeking a student loan, they will ultimately underwrite fewer loans, and those loans will likely have higher interest rates to compensate for the increased risk.

Protecting Innocent Consumers Affected by a Shutdown Act

CBA member institutions work with customers facing hardships – whether manmade or natural – every day. We know federal employees and contractors had no role in causing the recent government shutdown, and banks consistently work with affected customers on a one-on-one basis whenever federal workers and contractors miss paychecks due to a government shutdown. It was broadly acknowledged during the last shutdown that banks worked closely with their affected customers in a variety of ways, including preserving their credit scores. Given these actions, we question the need for this legislation. If federal statute is nonetheless considered necessary, we respectfully suggest focusing the benefit of this legislation specifically on those categories directly impacted by a government shutdown by striking the following language from page 2, lines 15-17 of the draft: *"or other business, and who has experienced a substantial reduction in pay (directly or indirectly) due to the shutdown."* Doing so will eliminate compliance challenges stemming from defining terms such as "substantial" and "indirectly," and ensure these protections go into effect immediately for workers and contractors enduring hardship due to a shutdown.

On behalf of our members, I would like to thank you for your consideration. We look forward to working with you to foster a vibrant lending market which promotes consumer access to credit.

Sincerely,

Richard Hunt
President and CEO
Consumer Bankers Association