



September 6, 2017

Hon. Jeb Hensarling, Chairman
Hon. Maxine Waters, Ranking Member
U.S. House Financial Services Committee
Washington, DC 20515

Re: *H.R. 2359 to be discussed at the September 7, 2017 Subcommittee on Financial Institutions and Consumer Credit hearing entitled “Legislative Proposals for a More Efficient Federal Financial Regulatory Regime”*

Dear Chairman Hensarling and Ranking Member Waters:

The National Association of Consumer Advocates, a nonprofit association actively engaged in promoting a fair and open marketplace that forcefully protects the rights of consumers, particularly those of modest means, writes to urge opposition to H.R. 2359, the “FCRA Liability Harmonization Act.” The legislation would deprive victims of credit reporting abuses of deserved compensation for their losses and would disrupt the marketplace by diminishing the justice system as a key tool to deter systemic and abusive conduct in the vast and complex credit reporting and information system.

By eliminating punitive damages in individual cases and inserting an arbitrary cap on compensation for harmed consumers who band together in class actions against the same wrongdoers, H.R. 2359 disregards systemic misconduct that plagues the credit reporting industry and its real impact on millions of consumers and the marketplace. In recent cases, entities in the industry rightly have been held accountable for flagrant violations of the Fair Credit Reporting Act (FCRA), including ignoring multiple, years-long requests to correct blatant credit reporting errors; and wrongfully labeling consumers as criminals and terrorists while failing to use reasonable procedures to ensure accuracy of reports, effectively obstructing people’s ability to secure jobs, housing, loans, and other services. Many of these problems were not fixed until harmed consumers sued.

The punitive damages remedy specifically permitted under FCRA is a rarely used tool but it is necessary to stop and punish the worst behavior in this sector. In addition, credit reporting practices are often systemic and widespread impacting thousands or millions of consumers. In these cases, where many consumers are affected by the same willful violations, class actions are the most efficient method to resolve these disputes. Imposing a one-size cap on remedies is an apparent attempt to discourage consumers from banding together against bad actors. It is also illogical because class actions involve different violations, losses, and numbers of affected individuals.

Credit bureaus and background check companies have tremendous power over the distribution of consumers’ data and information. Their misconduct affects individuals’ reputations and financial security, which in turn impacts the economy. When these entities recklessly and willfully fail at their duties, they must be held accountable for the disruption they cause in the marketplace. Diluting consumers’ rights and remedies would remove crucial incentives for industry players to comply with the law and would clear the way for bad actors to violate it without fear of recourse.

Finally, as consumer complaints about the credit reporting industry have grown over the years, it is far more appropriate for Congress to consider enhancing FCRA rights and protections than to entertain measures that would undermine and weaken them.

We urge you to abandon this legislation.

Sincerely,

Christine Hines
Legislative Director