

Testimony of
Veneshia Ferdinand
On Behalf of the
American Bankers Association
Before the
Financial Institutions Subcommittee
Of the
House Financial Services Committee
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Chairman Barr, Ranking Member Foster, and Members of the Subcommittee, thank you for the opportunity to testify on behalf of the American Bankers Association (ABA)¹ at today's hearing entitled: "Promoting Access to Credit for Everyday Americans." I am Veneshia Ferdinand, and I serve as Assistant Vice President and Director of Compliance Policy at Simmons Bank, which is a subsidiary of Simmons First National Corporation, headquartered in Pine Bluff, Arkansas. Simmons Bank operates over 220 branches throughout the Mid-South in Arkansas, Kansas, Missouri, Oklahoma, Tennessee, and Texas.

I have over 24 years of experience in banking and financial services, with a strong focus on consumer credit reporting, federal consumer protection laws, and operational compliance under the Fair Credit Reporting Act (FCRA). In my testimony, I will focus on how the FCRA operates in practice and how regulatory policy impacts consumers, data furnishers, and financial institutions. My testimony will cover three key points:

- Banks are important participants in the credit reporting system and work hard to ensure they are living up to their consumer protection obligations and providing the best customer experience they can.
- The more complete and accurate information in the credit reporting system, the better banks can manage risk and responsibly meet consumers' credit needs.
- Even well-intended policy changes can unintentionally increase costs and introduce process challenges that affect credit reporting accuracy and risk management, which ultimately impact credit availability.

¹ The American Bankers Association is the voice of the nation's \$25.3 trillion banking industry, which is composed of small, regional, and large banks that together employ over 2 million people, safeguard \$20.1 trillion in deposits and extend \$13.5 trillion in loans.

Overview of the Credit Reporting Framework

The Fair Credit Reporting Act and its implementing regulation, Regulation V, establish the legal framework governing the collection, furnishing, use, and disclosure of consumer credit information in the United States. The FCRA and Regulation V assign rights and obligations to four primary participants in the credit reporting system: consumers, consumer reporting agencies, furnishers of information in consumer reports, and users of consumer reports. Financial institutions often operate as users and furnishers simultaneously, placing them at the center of the credit reporting ecosystem.

Financial Institutions as Users of Credit Reports

Financial institutions, including banks, obtain consumer reports only for “permissible purposes” expressly authorized under the FCRA, such as evaluating applications for credit, account reviews, employment decisions, or other legitimate business needs. Prior to accessing a consumer report, banks must certify their permissible purpose to the Credit Reporting Agency (CRA) and restrict access to authorized bank personnel. These requirements function as essential gatekeeping controls that protect consumers from misuse of their credit information.

Credit Risk and Decision-Making

Banks use consumer reports to inform critical decisions such as credit approval, pricing, and account management. The information in the credit reports influences credit decisions at banks. This is critical to underwriting and balance-sheet risk management. Banks do not want to extend credit to those posing a risk to their balance sheet or to deny credit to consumers who are likely to repay.

To manage credit risk, banks must follow internal underwriting guidelines that align with the bank’s credit risk tolerance. If the information in the credit report reflects too much credit risk for the bank to accept, this results in the consumer being declined for credit. Understanding a consumer’s overall financial picture, including their existing debts and repayment obligations, also allows a bank to avoid issuing a loan a consumer cannot afford to repay. Banks are required to conduct this “ability to repay” analysis under the Truth in Lending Act before providing certain credit products, such as mortgages and credit cards.

Banks also use information from consumer credit reports to conduct risk-based pricing, which allows them to offer access to credit to consumers who otherwise would not qualify. Higher-risk borrowers, whose credit reports show they may be less likely to repay or who have “thin” credit files (i.e., less credit history for lenders to analyze), are charged higher interest rates, while lower-risk borrowers receive more favorable, lower rates. This approach allows lenders to manage potential default risk while lending to underserved consumers who otherwise might not be able to access credit.

To perform these functions, banks must have confidence that the credit reporting system will present an accurate picture of a consumer’s creditworthiness and financial obligations to allow them to assess consumers’ credit risk. If, for example, certain types of accurate information

about consumers were systematically suppressed (which will be discussed further later in this testimony), the associated risk would still exist but could not be accurately captured during underwriting. To manage the risk in their lending portfolios, banks would have to restrict credit to borrowers who meet higher underwriting criteria. As a result, some creditworthy consumers would not qualify for loans and would lose access to credit.

Consumer Disclosures

Banks are required by FCRA to provide adverse action notices, which serve a vital consumer protection function. Adverse action notices explain how credit information affected the bank's decision and preserve the consumer's right to review and dispute any inaccurate information in the consumer report. From a bank's perspective, these disclosure requirements are central to transparency and accountability, but they also require significant operational coordination across lending, credit risk, compliance, and technology functions.

Financial Institutions as Furnishers of Information

Accuracy and Integrity of Data

Financial institutions that transmit information on consumer accounts including payment history, balances, delinquencies, and account status to one or more CRAs are defined as "furnishers" under the FCRA. However, financial institutions and other entities are not required to furnish information to CRAs. If they furnish information, the FCRA imposes a legal obligation to ensure that information reported is accurate and has integrity, meaning it is supported by the bank's records and transmitted in a manner designed to minimize errors.

To meet this obligation, institutions must establish and maintain written policies and procedures appropriate to their size, complexity, and activities. In practice, these policies require ongoing investment in system controls, employee training, monitoring, and oversight, particularly during mergers, system conversions, or to implement regulatory changes.

The operational demands placed on banks by the FCRA are substantial and continue to grow as credit decisions become more automated and data driven. Banks integrate FCRA requirements across multiple business lines, vendors, and systems, while also adapting to evolving regulatory interpretations.

One of the key operational responsibilities banks face is maintaining data accuracy across our systems. If banks chose to report to CRAs, the FCRA prohibits us from furnishing inaccurate consumer data to credit reporting agencies. The data must be submitted in the correct format set forth by the Consumer Data Industry Association (CDIA).

Consumer Disputes and Investigations

Consumer dispute resolution is one of the most operationally challenging aspects of furnisher responsibility. Consumers have the right to dispute the accuracy of information in their consumer reports, such as the status of a loan or account.

Furnishers may receive consumer disputes indirectly from a CRA (via an online credit dispute management system) or directly from a consumer. In both cases, the furnisher (bank) must conduct a reasonable investigation, review all relevant information, and respond within strict statutory timeframes. For example, if a bank reports to a consumer reporting agency that a loan payment is past due under the terms of the loan and the consumer disputes it, alleging that they in fact made the payment, the bank has a responsibility to investigate the dispute.

If information cannot be verified or is determined to be inaccurate or incomplete, it must be corrected or deleted. Importantly, the FCRA does not permit furnishers to simply delete disputed information without investigation. This requirement underscores the dual policy goals of protecting consumers from inaccurate reporting while preserving the integrity and reliability of the credit reporting system. However, the FCRA allows furnishers not to investigate disputes they reasonably determine are frivolous or irrelevant. These are often direct disputes from consumers with insufficient information or re-submissions of the same dispute even though the bank has already resolved the dispute in a compliant manner.² Banks are required to respond to the consumer in writing within 5 days after making the determination that the dispute was frivolous or irrelevant.

Smaller banks with less technological infrastructure rely on labor-intensive manual processes for FCRA compliance and dispute investigation, which require significant compliance resources. In addition, banks of all sizes spend considerable time and resources educating consumers about FCRA dispute processes and timelines as part of receiving and investigating credit reporting disputes from customers.

Banks have a responsibility to correct consumer data and update the information to CRAs if the bank is notified of changes to a consumer's data. For example, if a bank reports to a CRA such as ChexSystems³ that a consumer's account was closed with an outstanding negative balance, and the consumer subsequently pays off that balance, the bank has a duty to update the CRA. This ensures the consumer's credit report accurately reflects that they no longer have an outstanding payment obligation for that account.

Impact of Regulatory Policy on Consumers and Financial Institutions

² They can also be meritless disputes filed in furtherance of a form of fraud known as "credit washing." This is an attempt by a consumer (or a criminal using synthetic or stolen identities to open consumer credit accounts) to fraudulently have accurate, negative information removed from a consumer report (often with the intent of obtaining and defaulting on more credit and repeating the cycle).

³ ChexSystems is a consumer reporting agency under FCRA used to evaluate a customer's eligibility to open deposit accounts. It provides information on prior banking history, such as account closures, unpaid overdrafts, or suspected fraud, which financial institutions use to assess deposit account risk.

From the consumer perspective, the FCRA framework provides several critical protections:

- Transparency through disclosures when credit information affects decisions
- Access to free annual credit reports and summaries of consumer rights
- Structured processes to dispute and correct inaccuracies
- Protections related to identity theft, fraud alerts, and data misuse

When these mechanisms function as intended, consumers are empowered to identify errors and mitigate long term harm. However, the effectiveness of these protections depends heavily on consumer understanding of notices and the practical usability of dispute processes, areas where complexity can reduce effectiveness despite regulatory compliance.

Clear, consistent rules and realistic implementation timelines are critical to ensuring that compliance efforts translate into meaningful consumer protection rather than procedural complexity for banks.⁴ Laws and regulations that increase FCRA compliance costs without meaningful consumer benefits needlessly drive up the cost of credit and other bank services and make financial services more expensive. Similarly, penalties should be connected to consumer harm rather than unlimited; currently, FCRA provisions allowing unlimited liability in class-action lawsuits drive up costs needlessly by encouraging frivolous lawsuits that are designed to force defendants to settle.

The federal financial regulators are currently making needed and welcome reforms to focus their supervisory efforts on preventing and remediating consumer harm rather than punishing minor, technical foot-faults in banks' compliance programs. These changes in focus will prioritize consumer protection while reducing unnecessary supervisory burdens and costs, which will ultimately help make financial services more affordable for consumers.

When the consumer reporting system functions as intended, it also enables banks to manage credit risk and to maximize consumers' access to credit, as discussed above. This, in turn, helps banks meet the needs of consumers and drive economic growth in their communities and nationwide.

Laws and regulations that ban reporting accurate, negative consumer information undermine this. For example, when the CFPB issued a (now-rescinded) rule banning the reporting or use of information about medical debt, banks expressed concern that it would merely mask (not eliminate) the associated credit risk and create the potential for unintended long-term consumer

⁴ The risk of inconsistency is heightened by the fact that the FCRA can be enforced in multiple forums by multiple entities, including federal agencies, state attorneys general, and consumer exercising the FCRA's private right of action. It is worsened because, even though the FCRA comprehensively regulates the nationwide credit reporting system, some states now have laws intended to ban reporting certain categories of credit information (e.g., medical debt). These laws may even have different standards determining what information qualifies to be in a prohibited category (e.g., coerced debt). This creates a patchwork of inconsistent state laws.

harm.⁵ This would have elevated the credit risk for banks and would have been even riskier for consumers who could not afford the additional credit. The long-term impact of policy decisions suppressing information would have either: caused banks to take on more risk; forced banks to tighten credit standards to offset the risk, which would have decreased lending; or forced banks to loosen credit standards to continue lending at the same volume, while pricing credit significantly higher to account for the unaccounted-for risk. This suppression of medical debt also is inconsistent with the Truth in Lending Act's Ability to Repay rules, which require lenders to assess whether the consumer can afford the loan.

While the CFPB's medical debt rule has been rescinded, unfortunately some states are passing state laws that purport to suppress medical debt and various other specific categories of debt from appearing on consumer reports. However, the same concerns apply to these state laws. Requiring banks to assess repayment ability while excluding entire categories of debt from credit reports compounds credit risk by undermining both sound underwriting and meaningful consumer protection.

Conclusion

Banks occupy a vital role in the credit reporting ecosystem as both users and furnishers of consumer information. The FCRA provides a comprehensive framework that, when effectively implemented, protects consumers, promotes accurate credit reporting, and supports a functioning credit market. Continued attention to clarity, consistency, and practical implementation will help ensure that regulatory policy achieves its intended objectives for all participants in the system.

Thank you once again for the opportunity to testify. I look forward to answering your questions.

⁵ See ABA comment letter to CFPB Director Chopra, *Re: Proposed Rule re Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information* (Aug. 12, 2024), <https://www.aba.com/-/media/documents/comment-letter/clmedicaldebt20240812.pdf?rev=0202581b491b4f859640a932835b05eb>; ABA letter of support to Sen. Rounds and Rep. Norman, *Re: Joint Resolution Providing for Congressional Disapproval Under Chapter 8 of Title 5, United States Code, of the Rule Submitted by the Bureau of Consumer Financial Protection Relating to "Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information"* (Mar. 13, 2025), <https://www.aba.com/-/media/documents/letters-to-congress-and-regulators/ltrcongressmedicaldebtrule20250313.pdf?rev=b521fbf5e69c4105af9b6849608bcfb8>.