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Via Electronic Delivery to regulations@dfpi.ca.gov

File No; PRO 07-24

Department of Financial Protection and Innovation, Legal Division

Attn: Diana Pha, Regulations Coordinator

651 Bannan Street, Suite 300

Sacramento, CA 95811

RE: Invitation for Comments on Proposed Rulemaking under the California Consumer Financial Protection Law

Dear Ms. Pha:

The Consumer Data Industry Association (“CDIA”)¹ is pleased to offer its comments in response to the Second Invitation for Comments on Proposed Rulemaking by the Department of Financial Protection and Innovation (“DFPI”) concerning the implementation of regulations under the California Consumer Financial Protection Law (“CCFPL”) requiring registration and reporting by providers of consumer-reporting services.

The proposed registration and reporting requirements are unnecessary and duplicative of existing federal and state oversight of CRAs, and the industry’s high visibility to consumers through mandated disclosures and dispute processes under the Fair Credit Reporting Act, all of which combine to provide transparency and accountability for consumer reporting agencies (“CRAs”). The CDIA is also concerned that, given the DFPI’s jurisdiction is limited to consumer reports used for consumer financial products and services of California residents, any required reporting by the CRAs to the DFPI would give the DFPI only a partial and potentially inaccurate view of the consumer reporting industry. However, if registration is nonetheless adopted, the proposed data collection requirements should be significantly narrowed to provide data that is meaningful to the DFPI given the scope of its authority.

CDIA’s members, like all CRAs, play a critical role in the efficient functioning of the U.S. economy. They assemble and evaluate data on hundreds of millions of consumers, which they can provide to lenders, landlords, employers, volunteer organizations, and other decisionmakers in the form of a consumer report. As the Federal Trade Commission (“FTC”) has observed, consumer

¹ 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 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.

reports “benefit[] both creditors and consumers.”² They benefit creditors by helping them more accurately assess risk, which in turn helps them set interest rates and other key credit terms, or determine whether the consumer is offered credit at all.³ And they benefit consumers by allowing them to obtain financing more quickly and on more favorable terms.⁴ Consumer reports contribute to the efficiency, soundness, and safety of numerous industries in the United States, including housing, insurance, banking, finance, and retail credit.

The efficient functioning of the consumer reporting system depends on keeping the costs of the systems low while maintaining precision and accuracy. Increased costs, such as those associated with state registration and reporting requirements, impact the entire system from the users of consumer reports to consumers themselves. Lenders may pass those additional costs on to consumers through less favorable credit terms or lower the usage of consumer reports, which impacts their ability to accurately assess risk, and which may also increase the cost of credit to consumers.

I. The existing comprehensive oversight of CRAs makes the proposed registration and reporting requirements unnecessary.

Our CRA members already operate within a mature and comprehensive federal statutory framework, making the proposed registration and reporting requirements unnecessary. Specifically, for more than 50 years, CRAs have been comprehensively governed by the Fair Credit Reporting Act (“FCRA”),⁵ which establishes detailed, nationwide standards governing the accuracy and integrity of consumer report information; permissible purposes for furnishing consumer reports; consumer access, disclosure, and dispute resolution rights; and identity theft protections and related data handling obligations. The FCRA reflects Congress’s determination that consumer reporting activities, by their nature, require a uniform federal framework, rather than fragmented state-by-state regulation.⁶ That is further supported by broad preemption provisions in the FCRA, which were designed to avoid exactly the type of overlapping and potentially

² Fed. Trade Comm’n, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003* at I (Dec. 2004), <https://www.ftc.gov/sites/default/files/documents/reports/under-section-318-and-319-fair-and-accurate-credit-transaction-act-2003/041209factarpt.pdf>.

³ See Consumer Fin. Prot. Bureau, *Taskforce on Federal Consumer Financial Law Report*, Vol. 1 at 395 (Jan. 2021), https://files.consumerfinance.gov/f/documents/cfpb_taskforce-federal-consumer-financial-law_report-volume-1_2022-01_amended.pdf.

⁴ See, e.g., Michael E. Staten & Fred H. Cate, *The Impact of National Credit Reporting Under the Fair Credit Reporting Act: The Risk of New Restrictions and State Regulation* at ii-iii, vi-vii (2003).

⁵ 15 U.S.C. § 1681.

⁶ See S. Rep. No. 108-166, at 25-26 (2003) (“The legislation establishes permanent, uniform, national standards. . . . Because the legislation provides uniform national standards, allowing for the further development of national credit markets and reduces the opportunities for identity theft, inaccuracy, and increases consumer awareness and understanding of the financial markets, the legislation will achieve greater efficiencies in the credit markets. The combination of national standards and greater efficiency will lead to greater availability of credit that is more cheaply and quickly accessible. Ultimately, the new legal and regulatory framework established by this legislation will provide significant benefits to millions of American consumers and the national economy.”)

inconsistent regulation that additional state registration and reporting requirements could create.⁷

Federal regulators already possess extensive supervisory and enforcement authority over CRAs under the FCRA and the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”). The Consumer Financial Protection Bureau (“CFPB”) has direct supervisory authority over non-bank larger participants in the consumer reporting market, namely CRAs.⁸ The CFPB supervises designated “larger participants” in the consumer reporting market through regular examinations and ongoing monitoring, and the CFPB’s supervisory authority includes requiring CRAs to produce detailed operational, compliance, governance, and risk-management information. The CFPB also has authority to supervise persons whom the CFPB has reasonable cause to determine are engaging or have engaged in conduct that poses risks to consumers with regard to the offering or provision of consumer financial products or services.⁹ Though the CFPB does not have a mandatory registration requirement, it does maintain a list of entities that have identified themselves as CRAs or have indicated they provide consumers access to information they have collected about them.¹⁰ This list further increases the visibility of the consumer reporting industry.

In addition, the CFPB and FTC share enforcement authority under the FCRA, including the authority to investigate potential violations, obtain extensive information through civil investigative demands and other compulsory processes, and bring civil enforcement actions.¹¹ These agencies regularly coordinate their efforts and have a long history of active oversight and enforcement in the consumer reporting space, with access to extensive and granular information about CRA operations where warranted.

In California, our members are also subject to the California Consumer Credit Reporting Agencies Act (“CCRAA”), which overlays additional state-level requirements related to the accuracy, use, and disclosure of consumer credit information, as well as specific rights and remedies for California consumers.¹² Both the DFPI and California Attorney General have authority to investigate and enforce against violations of the CCRAA.¹³ The CCRAA is also

⁷ 15 U.S.C. § 1681t. *See* 141 Cong. Rec. S5450 (daily ed. Apr. 5, 1995) (statement of Sen. Bond) (“This bill also contains limited Federal preemption to ensure that there are uniform Federal standards to govern a number of procedural issues which are part of credit reporting, and which will reduce the burdens on the credit industry from having to comply with a variety of different State requirements. For example, the bill preempts requirements regarding prescreening, information shared among affiliates, reinvestigation timetables, obsolescence time periods and certain disclosure forms.”)

⁸ The consumer reporting larger participant rule defines this authority. *See* 12 C.F.R. § 1090.104.

⁹ 12 U.S.C. § 5514(a)(1)(C); 12 C.F.R. Part 1091.

¹⁰ Consumer Fin. Prot. Bureau, *List of Consumer Reporting Companies* (2025),

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

¹¹ 15 U.S.C. §§ 1681s(a), (b)(1)(H).

¹² Cal. Civ. Code §§ 1785.1-1785.36.

¹³ *See* Cal. Fin. Code §§ 90003(a), 90005, 90009, 90015. The California Attorney General can enforce the CCRAA through California’s Unfair Competition Law (“UCL”), codified in Business and Professions Code §§ 17200 *et seq.* Violations of

enforceable through private actions, adding another layer of oversight on top of the federal regime.

Together, these mechanisms result in consistent, structured disclosures of information about CRA operations, whether in supervisory examinations, regulatory investigations, or in communications with consumers. Because of this, CRAs already operate under continuous legal scrutiny, which obviates the need for additional registration and reporting requirements as a means to obtain information about CRA operations.

That said, if the DFPI identifies issues or emerging risks in the market through its existing monitoring tools, it already has other authorities with respect to CRAs at its disposal to address those concerns. Through its ongoing market monitoring, complaint intake, and broader supervisory and enforcement powers under the CCFPL, the DFPI can identify patterns of potential concern involving consumer reports used in connection with consumer financial products and services. Where warranted, the DFPI can open investigations, request information, and pursue appropriate supervisory or enforcement actions against covered persons, including CRAs, without the need to impose a separate front-end registration and reporting regime. These mechanisms should allow the DFPI to meet its stated goals of improving accountability and transparency in the marketplace and promoting nondiscriminatory access to financial products and services that are not unfair, deceptive, or abusive.

For these reasons, registration and reporting are not needed to surface CRA-related concerns to the DFPI. Instead, the DFPI should reserve its registration and reporting authority for products and services that are far less regulated than traditional consumer reporting where there is no comprehensive legal framework, where federal and state supervisory structures are less developed, and where consumer protection issues are more difficult to detect through existing channels. In such emerging or lightly regulated markets, targeted registration and reporting may meaningfully enhance visibility into risks and practices. By contrast, imposing registration and reporting obligations on already highly regulated CRAs would be duplicative of existing federal and state oversight and unlikely to yield information leading to material consumer protection benefits.

II. Any new definitions or clarifications to existing CCFPL definitions should align with the DFPI’s statutorily defined jurisdiction and avoid inconsistency with the federal framework.

In considering whether to adopt definitions or clarify terms defined by the CCFPL, the DFPI should consider two important limitations. The CCFPL, as enacted, defines the DFPI’s

the CCRAA constitute “unlawful” business practices under the UCL, which expressly grants the Attorney General authority to bring enforcement actions against such violations.

authority more narrowly than the Dodd-Frank Act's grant of authority to the CFPB with respect to consumer reporting and any registration obligation must be similarly limited in scope to those covered person that provide consumer products or services directly to consumers. Within that narrower scope, any definitions the DFPI adopts should align with established FCRA terminology, rather than create a separate state regime.

First, in considering the scope of its jurisdiction, the DFPI should recognize that its authority does not reach all consumer reporting agencies in the same way as other regulators, such as the Consumer Financial Protection Bureau (CFPB), due to the structural differences between the CCFPL and the Dodd-Frank Act. Under the Dodd-Frank Act, 12 U.S.C. § 5481(5)(A), a "consumer financial product or service" is defined by reference to the definition of a "financial product or service", which expressly includes "collecting, analyzing, maintaining, or providing consumer report information" used in connection with eligibility decisions by any end user, not just consumers. The CCFPL's definition of a "covered person" in Financial Code section 90005, subdivision (f), by contrast, is limited to those covered persons that provide consumer financial products or services "for use by" California residents. As a result of the legislature's decision to deviate from the language of the Dodd-Frank Act, the DFPI has no jurisdiction over consumer reporting agencies other than for the limited purposes of providing direct-to-consumer products or services, such as credit monitoring services. The DFPI should not use "clarifications" of statutory terms to create the broader structure under the Dodd-Frank Act through regulations. Any expansion of the DFPI's authority in this area would require an amendment to the CCFPL itself, which cannot be accomplished through rulemaking.

Second, within that limited jurisdictional scope, to the extent that the DFPI believes that definitions are necessary for "consumer report," "consumer report information," "account information," or related terms under Financial Code section 90005, subdivision (k)(9), those definitions should track the existing federal framework under the FCRA to promote consistency between state and federal law and avoid conflicting compliance regimes. The FCRA already provides detailed definitions of a "consumer report" and "consumer reporting agency" that have been extensively interpreted by courts and regulators over decades and used by CRAs as a framework for offering their products and services.¹⁴ California's own consumer reporting statute, the CCRAA, already adopt FCRA concepts and terminology.¹⁵ Adopting the FCRA's definitions in the DFPI's regulations would reduce uncertainty for CRAs subject to both federal and California frameworks.

III. The DFPI's limited jurisdiction over CRAs would make oversight incomplete and ineffective.

¹⁴ See 15 U.S.C. §§ 1681a(d), (f).

¹⁵ See Cal. Civ. Code §§ 1785.3(c), (d); Cal. Civ. Code §§ 1786.2(c), (d).

Under the CCFPL, the DFPI's jurisdiction over CRAs is limited to consumer reports used in connection with evaluating a consumer for a consumer financial product or service. This is similar to the CFPB's authority under the Dodd-Frank Act; however, unlike the DFPI, the CFPB also exercises authority over the entirety of the FCRA, which enables it to assess CRAs' compliance across the full range of FCRA permissible purposes, for example, as related to consumer reports used for tenancy or employment purposes. In contrast, the limitation in DFPI's statutory jurisdiction, in combination with its California-specific authority, means that the DFPI's oversight of CRAs would necessarily provide the DFPI with only a partial window into the operations of CRAs. Such information would be incomplete and, in many cases, potentially misleading when viewed in isolation.

This problem is compounded by the way that CRAs actually operate. Many CRAs do not maintain separate databases, systems, or operations for consumer reports used for consumer financial products as opposed to reports used for other permissible purposes. Instead, CRAs design and manage their operations around the single, over-arching set of legal requirements set forth in the FCRA, which generally does not differentiate obligations based on the permissible purpose for which a consumer report will be used. Requiring CRAs to register or report to the DFPI only with respect to consumer reports used for consumer financial products and services would, in effect, require CRAs to attempt to unwind their operations to distinguish between a user's (or furnisher's) product offerings, which would not only be burdensome and difficult, but also provide DFPI with only a partial and distorted picture of a CRA's overall operations.

To illustrate the difficulty of separating financial-service-related consumer reporting from other types, a large consumer reporting agency will have thousands of furnishers of information and thousands of users of consumer reports. But those populations are not static – new users arrive constantly, and old ones disappear, and likewise furnishers can come and go. In addition, users may have both financial and non-financial products for which consumer reports are obtained, and they may change their business operations over time.¹⁶ In order to report information related only to consumer reports used for financial services, each CRA would have to maintain a constantly changing inventory of its users and furnishers that distinguishes between consumer financial products and services and all other uses. Attempting to separate consumer financial uses for consumer reports from all others would be an exceedingly burdensome task, all for the purpose of shaping the reporting requirements to match the DFPI's limited jurisdiction. For example, if an end user is relying on the written instructions or authorization of the consumer when requesting a consumer report, the CRA may not have visibility into whether the

¹⁶ This also presupposes that the DFPI and all players in the credit reporting industry will have the same understanding as to what constitutes consumer reports used for financial purposes. This likely ambiguity will create additional confusion, lack of uniformity, and burden to those trying to comply.

consumer report will be used by the end user for a consumer financial product or some other purpose with the consumer's consent.

Because CRA systems and processes are generally built to apply uniform standards across all permissible purposes, carving out and operationalizing separate processes for DFPI-covered uses would be difficult, if not impossible, to implement in practice, without any clear benefit to consumers.

IV. If the DFPI proceeds with registration and reporting requirements, reporting should be limited to minimal, directory-level information.

If the DFPI nonetheless moves forward with a registration and reporting requirement for CRAs, any resulting reporting obligations should be strictly limited to minimal, directory-level information. In particular, the DFPI should not require reporting on disputes and complaints, data breaches, or proprietary or operational details such as alternative data and modeling practices. Imposing broader reporting obligations related to disputes and complaints, in particular, would not only be burdensome for CRAs, but would fail to provide DFPI with meaningful or actionable insight because data regarding disputes and complaints would be overwhelmed by the large-scale misuse of these processes by credit repair organizations and consumers who use them in an attempt to remove accurate negative information from credit reports.

In the current market, credit repair organizations and debt settlement companies submit huge numbers of AI-generated, mass-produced disputes and complaints to CRAs, often promising consumers that they can remove accurate negative information from consumer reports. The strategy of these bad actors in the credit repair or debt settlement space is to flood the CRAs and furnishers with such a high number of disputes that it becomes difficult or impossible to complete investigations within the short time periods mandated by the FCRA, thereby increasing the likelihood that accurate information will be deleted by default.¹⁷ Individual consumers frequently make similar efforts, urged on by social media influencers who, like credit repair organizations, promise that accurate information can be removed from consumer reports by submitting large numbers of meritless disputes. Certainly, there are some consumers with legitimate disputes, but these meritorious disputes are a needle in the haystack of mass-produced, frivolous disputes used to further credit-washing schemes. Measuring dispute and complaint volumes against this backdrop through the reporting contemplated in the DFPI's request for comments would not shed light on the accuracy of consumer reports; it would merely reflect the industry's efforts to cope with the ongoing brute-force assault on accurate credit reporting.

¹⁷ Bipartisan legislation is presently pending in Congress to attempt address these practices. See Ending Scam Credit Repair Act (ESCRA), H.R. 306, 119th Cong. (2025).

The limitations on DFPI's jurisdiction further underscore why such reporting would present an incomplete and potentially misleading picture of the industry. The DFPI's authority extends only to consumer reporting activities related to consumer financial products or services and activities involving or impacting California residents. Consequently, any data collected would represent only a subset of CRA operations. CRAs, however, operate in interstate and integrated markets, frequently relying on centralized systems and uniform processes across jurisdictions. Disaggregating activities by state and by report purpose (e.g., consumer financial services versus other uses) would give the DFPI a partial and distorted view of the broader consumer reporting ecosystem.

At the same time, generating this information would be extremely burdensome and operationally difficult for CRAs.

Moreover, any separate requirement to report data breaches to the DFPI would be unnecessary and duplicative. California already has a general data breach notification law that obligates businesses to notify affected individuals, and, if warranted, the California Attorney General, of data breaches.¹⁸ Duplicating these obligations with a DFPI-specific requirement would not materially improve consumer protection or regulatory visibility.

Furthermore, any reporting regime should avoid requiring CRAs to disclose proprietary or sensitive information. Several of the categories of information the DFPI is considering collecting would require CRAs to reveal details about internal operations that are competitively sensitive. Descriptions of the use of alternative data, for example, would likely necessitate disclosure of specific data elements used in scoring and fraud-detection models that are more detailed than those present in the key factors provided in adverse action notices under the FCRA. This information is highly sensitive for two reasons.

First, CRAs compete vigorously to develop models that most accurately predict consumers' likelihood of repaying credit obligations and best differentiate between risk profiles. These models and the underlying data are the product of substantial investment in research, development, and infrastructure, and they are central to how CRAs compete in the marketplace. Requiring detailed disclosure of those inputs and methodologies would effectively force CRAs to divulge trade secrets and other business confidential information, undermining their competitive position and weakening incentives to invest in innovation that ultimately benefits both consumers and creditors.

Second, disclosing the requested details risks increasing the level of fraud in the consumer lending market, which is already extremely high. CRAs have developed models specifically designed to help creditors detect and prevent fraud and identity theft. Disclosure of data

¹⁸ Cal. Civ. Code § 1798.82.

elements and methodologies used to combat fraud would risk alerting fraudsters to how those models work, potentially enabling them to evade detection and commit additional fraud. Ultimately, the victims of that fraud are consumers, both those whose identities are directly stolen and consumers more broadly, who bear increased costs for financial products due to the high and growing costs of fraud in the industry.

V. Any regulations adopted by the DFPI should recognize that resellers are differently situated than other originating CRAs.

Resellers play a more limited and distinct role in the consumer reporting ecosystem than traditional CRAs, and to the extent that the DFPI extends registration, bonding, or reporting requirements to resellers at all, those obligations should reflect that distinction.

By definition, resellers do not maintain their own independent databases of consumer report information from which consumer reports are generated.¹⁹ Instead, resellers obtain consumer report information from one or more primary CRA(s) and then assemble and merge that information for delivery to end users. The core functions of collecting, assembling, and maintaining consumer files, as well as the corresponding risks related to accuracy, integrity, and data quality, rest with the source CRAs, not with resellers. For that reason, reseller activities do not warrant the same level of scrutiny as CRAs that collect and maintain the underlying databases of consumer report information.

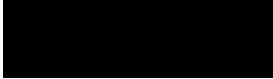
In addition, many resellers are small businesses that operate on thin margins and would be disproportionately affected by a one-size-fits-all registration, bonding, and reporting framework. Resellers typically remit a substantial portion – often 75% or more – of their gross revenue directly to the source CRA(s) from which data is received. As a result, a reseller’s gross income may be significantly inflated by what is effectively pass-through income to the source CRAs. If the DFPI adopts any gross-income-based thresholds or tests for registration, bonding, or reporting, it should recognize this aspect of reseller business models and create a carve-out or separate framework better tailored to resellers that takes into account net revenue or another more appropriate metric.

Lastly, as discussed above, CDIA discourages DFPI from adopting reporting requirements related to complaints and disputes generally, but notes additional concerns related to resellers in particular. Because resellers do not maintain the underlying databases of consumer report information, any disputes about the substance or accuracy of reseller reports are ultimately directed to and handled by the primary CRAs that furnish the data. If resellers are required to report information about disputes and complaints, the resulting data would be artificially inflated, incomplete, and create an inaccurate picture of industry practices.

¹⁹ 15 U.S.C. § 1681a(u).

Thank you for the opportunity to share the views and concerns of the consumer reporting industry as part of the DFPI's rulemaking efforts. Please contact us if you have any questions or need further information based on our comments.

Sincerely,



Sarah M. Ohs

Vice President of Government Relations