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California Department of Financial Protection and Innovation
651 Bannan Street
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Via Email: regulations@dfpi.ca.gov

Re: Second Invitation for Comments Under the California Consumer Financial Protection Law Regarding Registration and Reporting of Covered Persons, PRO 07-24

To Whom It May Concern:

The National Consumer Reporting Association (“NCRA”)¹ is grateful for the chance to comment on the [proposed rulemaking](#) directed at entities who engage in “[c]ollecting, analyzing, maintaining, or providing consumer report information or other account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or provision of a consumer financial product or service.”² As the leading trade association for mortgage reporting and tenant screening companies, which are regulated, supervised, examined, and enforced under a variety of federal and state laws, this comment will assist the Department in its work.

¹ Founded in 1992, the National Consumer Reporting Association is a national trade organization of reseller consumer reporting agencies (CRAs) and associated professionals. Our members serve as conduits between the nationwide consumer reporting agencies (Experian, Equifax and TransUnion), mortgage lenders, and property managers to provide products and services to the businesses making lending and housing decisions.

² On January 12, 2026, the Department of Financial Protection and Innovation (“Department”) issued Second Invitation for Comments Under the California Consumer Financial Protection Law Regarding Registration and Reporting of Covered Persons (“Proposed Rulemaking”).

1. Background on the Proposed Rulemaking

The California Consumer Financial Protection Law (“CCFPL”) was enacted in 2020.³ This law created the Department of Financial Protection and Innovation (“Department” or “DFPI”) to, among other things, “regulate the offering and provision of consumer financial products or services under California consumer financial laws and shall exercise nonexclusive oversight and enforcement authority under California consumer financial laws.”⁴ As noted by the Department in the Proposed Rulemaking,

...the Department finalized its inaugural registration and reporting regulations under the CCFPL [in 2024]. The rulemaking, which became effective on February 15, 2025, created registration and reporting requirements for providers of four previously unregistered financial products and services in California: (1) income-based advances, (2) private postsecondary education financing, (3) debt settlement services, and (4) student debt relief services. On October 28, 2024, the Department issued an invitation for comments on requiring registration and reporting from additional categories of covered persons under the CCFPL.⁵

Now, the Department is considering rules that apply to persons engaged in offering or providing consumer financial services to California residents, as described in Financial Code section 90005, subdivision (k)(9), relating to consumer reporting.⁶

³ Stats. 2020, [Ch. 157](#), (Assembly Bill 1864 by Assemblymember Monique Limón). The CCFPL was codified in division 24 of the Financial Code ([Fin. Code, § 90000](#) *ut fr.*).

⁴ *Id.*, § 90006(a).

⁵ Proposed Rulemaking, 1.

⁶ This subdivision [Fin. Code § 90005\(k\)\(9\)](#) relates to:

(9) Collecting, analyzing, maintaining, or providing consumer report information or other account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or provision of a consumer financial product or service, except to the extent that:

(A) A person does any of the following:

(i) Collects, analyzes, or maintains information that relates solely to the transactions between a consumer and that person.

(ii) Provides information to an affiliate of the person, as described in subdivision (a).

(iii) Provides information that is used or expected to be used solely in any decision regarding the offering or provision of a product or service that is not a consumer financial product or service.

(B) The information described in clause (i) of subparagraph (A) is not used by the person or affiliate in connection with any decision regarding the offering or provision of a consumer financial product or service to the consumer, other than credit described in subparagraph (A) of paragraph (1) of subdivision (e) of Section 90006.

2. Existing Law and Reasonable Alternatives: Additional Regulation is Unnecessary (Question 28)

Before the Department moves to regulate the consumer reporting ecosystem, it should note the ample regulation already in place at the federal and state levels, making additional regulation unnecessary. The substantial federal and state laws discussed below offer objectively reasonable alternatives to the proposed regulatory action. These alternatives are equally and fully effective in achieving the purposes of the regulation in a manner that ensures full compliance with the authorizing statute and other laws that may be made specific by the proposed regulation.

A. Federal Law

The touchstone for federal regulation comes from the Fair Credit Reporting Act (“FCRA”).⁷ This law protects consumers and regulates consumer reporting agencies (“CRAs”), entities that furnish data to CRAs (“furnishers” or “data furnishers”), and entities that obtain data from consumer reporting agencies (“users” or “data users”).

First enacted in 1970 and updated many times since, the FCRA serves as a critical law that guides businesses, consumers, federal and state regulators, and law enforcement as they navigate the consumer reporting ecosystem. Federal Trade Commission (“FTC”) Chairman Tim Muris said that “the FCRA is an intricate statute that strikes a fine-tuned balance between privacy and the use of consumer information. At its core, it ensures the integrity and accuracy of consumer records and limits the disclosure of such information to entities that have ‘permissible purposes’ to use the information.”⁸ A collection of consumer groups called the FCRA “a robust law that gives consumers Fair Information Practices based [“FIPs”] rights. For example, consumers have the right to know about, inspect, dispute and correct their files. The FCRA requires purpose specificity before a report can be accessed.”⁹ The FTC called the FCRA “an important tool that provides consumers with the right to access their own data that has been used to make such decisions, and if it is erroneous, to correct it.”¹⁰

⁷ 15 U.S.C. § 1681 *et seq.*

⁸ FTC Chairman Tim Muris, October 4, 2001 before the Privacy 2001 conference in Cleveland (“Muris”).

⁹ Hearing on *Consumer Privacy in an Era of Rapid Change* Before the Senate Comm. on Banking, Housing, and Urban Affairs, Sept. 22, 2005 (111th Cong.) (statement of Edmund Mierzwinski U.S. PIRG on behalf of Consumer Federation of America, Consumers Union, Electronic Privacy Information Center (EPIC), Privacy Rights Clearinghouse, Privacy Times, U.S. Public Interest Research Group (U.S. PIRG), and World Privacy Forum (“Consumer Groups”).

¹⁰ [Protecting Consumer Privacy in an Era of Rapid Change](#), Fed. Trade Comm., March 2012.

The Department is also familiar with the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”).¹¹ Under this act, the Consumer Financial Protection Bureau (“CFPB”) has the authority to supervise, including through regular examination, non-bank larger participants in the consumer reporting market, namely CRAs. The consumer reporting larger participant rule defines this authority.¹² 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 about the offering or provision of consumer financial products or services.¹³ The CFPB and the FTC share enforcement and rulemaking authority over all CRAs and regularly coordinate their efforts. In practice, the Larger Market Participant Rule¹⁴ casts a wide net, allowing the CFPB to robustly regulate, supervise, examine, and enforce.

For example, the CFPB has broad investigative and enforcement authority when it suspects violations of federal consumer financial laws or the Dodd-Frank Act’s prohibition on unfair, deceptive, or abusive acts and practices (“UDAAP”).¹⁵ This authority includes the power to demand production of documents, tangible things, written reports, answers to questions, and oral testimony by issuing a Civil Investigative Demand (“CID”) that describes the nature of the conduct at issue and the law being violated (known as the notification of purpose).¹⁶

Also at the federal level is the Gramm-Leach-Bliley Act (“GLBA”)¹⁷ and its Privacy and Safeguards Rule (“Safeguards Rule”),¹⁸ which impose protections on nonpublic personal information related to consumer financial products and services.

B. California Law

In California, the consumer reporting ecosystem is regulated by the California Credit Reporting Agencies Act (“CRAA”)¹⁹ and the California Investigative Consumer Reporting Agencies Act (“ICRAA”).²⁰ In many cases, the CRAA and the ICRAA go further than federal law in regulating the consumer reporting ecosystem.

To “protect the interests of the people,” the CRAA was first enacted in 1975 and has been amended many times since. This act “insure[s] that [CCRAAs] exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right to privacy.” The CRAA also

¹¹ [Pub. L. 111-203](#).

¹² [Tff- 12 C.F.R. § 1090.104](#).

¹³ [12 U.S.C. § 5514\(a\)\(1\)\(C\); 12 C.F.R. Part 1091](#).

¹⁴ [77 Fed. Reg. 42874 \(July 20, 2012\)](#).

¹⁵ [12 U.S.C. § 5531\(a\)](#).

¹⁶ [Id., § 5562\(c\); 12 C.F.R. § 1080.5](#).

¹⁷ [15 U.S.C. § 6801 *fut fr*](#).

¹⁸ [15 C.F.R. Part 314](#).

¹⁹ [Cal. Civ. Code § 1785.1 *fut fr*](#)

²⁰ [Id., § 1786 *fut fr*](#)

requires CRAs to “adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, hiring of a dwelling unit, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.”²¹

To “best protect the interests of the people, the ICRAA exists to “insure that investigative consumer reporting agencies [‘ICRAs’] exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right to privacy.” Further, the act adopt reasonable procedures for meeting the needs of commerce for employment, insurance information, and information relating to the hiring of dwelling units in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of the information in accordance with the requirements of this title.”²²

At the dawn of the consumer movement in the 1960s,²³ and today, California has the heaviest body of regulation imposed on CRAs and ICRAs and the most robust rights for consumers under those acts. This was true in 1975 when the Director of the California Department of Consumer Affairs testified before Congress that “California has a strict Fair Credit Reporting Act, and it goes far beyond what the federal legislation provides...”²⁴ It was true 30 years later, in 2005, when it was noted that California, along with Vermont and Massachusetts, had “tough credit reporting laws.”²⁵ The tough regulations and vigorous rights are true today.

3. Responses to the Department’s Other Questions, In General

While we disagree that there is a need for any further regulation of consumer report providers, should the Department undertake such rulemaking, it should consider the unique role resellers play in the consumer reporting marketplace and their special treatment under the law, as discussed below. Also, to the extent that there is additional regulation on CRAs, it should be proportional to the size, scope, function of the CRA, and the type of CRA.

²¹ *Id.*, § 1785.1.

²² *Id.*, § 1786.

²³ Planet Money Podcast: [The birth of the modern consumer movement](#), May 3, 2024.

²⁴ Consumer Information, *1 f bsjoh!Cf gsf !u f !Tvcdpn n /po!Dpot vn f sBggjst !pgu f !! /!Dpn n /po!Cbol joh! Gjobodf -!boe!Vscbo!Bggjst*, 95th Cong. (1975) (Statement of Richard B. Spohn, Director of the California Department of Consumer Affairs), 89.

²⁵ NOTE: The Fair and Accurate Credit Transactions Act of 2003: Will Preemption of State Credit Reporting Laws Harm Consumers?, 93 Geo. L.J. 1143, 1161 (citing *1 f bsjoh!po!u f !h qpsbodf !pgu f !Obypobrt!Dsf eju Sf qpsjoh!Tzt uf n !p!Dpot vn f st !boe!u f !V/T!Fdpopn z!Cf gsf !u f !Tvcdpn n /po!Gjo!bt ut /!boe!Dpot vn f s Dsf eju! pvt f !Dpn n /po!Gjo!Tf svt /*, 108th Cong. 3 (2003) (statement of Prof. Joel Reidenberg, Fordham University School of Law).

4. Consumer and Market Concerns (Questions 1 Through 6)

A. Substantial Benefits and Minimal Harms (Questions 1 and 2)

The Department asks questions about the benefits and harms of consumer reporting providers. The benefits to individual consumers and the California economy are substantial. While the *potential* harm to consumers can be significant, there are substantial laws in place to minimize any consumer impairment. The consumer reporting industry bears great responsibilities, hence the significant guardrails in place to protect consumers from harm. Data has long shown the extraordinary benefits and minimal harms to consumers.

Last year, Governor Gavin Newsom announced that “California has officially overtaken Japan to become the world’s fourth-largest economy.”²⁶ An economy of that size and scale is possible for many reasons, including the credit reporting system and the laws that undergird it.

In a 2012 report, the CFPB, under the directorship of Richard Cordray, observed that “[t]he consumer reporting system enables creditors and other providers of consumer services to pool information about their respective customers and use that pooled information to inform their credit and other risk decisions about new applicants and existing customers.” This “pooled information allows consumers access to low-cost credit and allows financial institutions to bring more people into the financial mainstream.”²⁷

Accuracy is the lifeblood of the credit reporting system, and credit bureaus already have a high degree of accuracy. Consumer reporting agencies strive to be as accurate as possible, and lenders rely on accurate consumer reports to support effective decision-making. Our members’ hard work is proven by several reports and studies. The FTC said that there is a “market incentive[] to maintain and improve the accuracy and completeness of [credit] reports.”²⁸ The Federal Reserve Board said that “[o]verall, research and creditor experience has consistently indicated that credit reporting company information...generally provides an effective measure of the relative credit risk posed by prospective borrowers.”²⁹

²⁶ Press release, Gov. Gavin Newsom, [California is now the 4th largest economy in the world](#), April 23, 2025 (citing the International Monetary Fund (IMF) and the U.S. Bureau of Economic Analysis (BEA)).

²⁷ CFPB, [L f z! E j n f o t j p o t ! b o e ! Q s p d f t t f t ! j o ! u f ! V / T ! D s f e j u S f q p s j o h ! T z t u f n ! B ! s f v j f x ! p d i p x ! u f ! o b j p o t ! r h s h f t U d s f e j u l c v s f b v t ! n b o b h f ! d p o t v n f s e b u b](#), Dec. 2012, 7.

²⁸ [S f q p s ! u p ! D p o h s f t t ! V o e f s T f d j p o t ! 4 2 9 ! b o e ! 4 2 : ! p d u f ! G b j s b o e ! B d d v s b u f ! D s f e j u U s b o t b d j p o t ! B d u p d 3 1 1 4 !](#) Fed. Trade Comm., Dec. 2004, 7/

²⁹ [B o ! P w f s w j f x ! p d D p o t v n f s E b u b ! b o e ! D p o t v n f s S f q p s j o h ! G f e ! S f t f s w f ! C v m h j o](#), Feb. 2003, 50-51! (citations omitted). [T f f ! b r t p , D s f e j u S f q p s j o h ! B d d v s b d z ! b o e ! B d d f t t ! u p ! D s f e j u G f e f s b r t S f t f s w f ! C v m h j o ! T v n f s 3 1 1 5 ! 4 3 1 /](#)

Innovations in consumer reporting continue to benefit consumers, as the products and services borne from such innovations, as well as the leveraging of data accessed through new and innovative consumer authorization processes, empower consumers by providing them with more knowledge and control over their financial information. Further, expanding the scope of consumer-authorized data access to include nontraditional data points and, in turn, allowing creditors to use that data in their underwriting processes, gives consumers increased access to credit and leads to greater financial inclusion for unbanked and underbanked consumers.

Advances in consumer reporting have led to sharp declines in the number of unbanked consumers in the United States. The unbanked “rates have been declining in the U.S., down from 7 percent in 2015 to 5.4 percent in 2019.” Data from a “2023 survey reports further improvement, with the national unbanked rate dropping to 4.3 percent, a historical low.”³⁰

B. The Over-Regulation of Consumer Reporting Providers (Question 3)

This comment highlights how consumer reporting providers are heavily regulated, supervised, examined, and enforced at the federal and state levels. Any additional regulation imposes additional burdens on businesses with no appreciable consumer benefit.

C. Specialty Market Segments (Question 4)

The Department asks whether “any market segments, such as specialty consumer reporting, require particular attention?” Any future rulemaking around specialty markets should follow existing federal standards. These federal standards, as noted above, are robust and effective in limiting business actions and providing substantial consumer rights. California’s application of federal standards should also apply to resellers, as discussed below. Also, to the extent that there is additional regulation on CRAs, it should be proportional to the size, scope, function of the CRA, and the type of CRA.

5. Definitions (Questions 7 Through 16)

A. The Department Should Recognize the Unique Role of Resellers in the Marketplace and Under Law (Question 15)

The department asks whether resellers (entities that assemble and merge consumer information from other consumer-reporting companies to furnish such information to third parties) are or should be covered persons under the CCFPL. While NCRA is not taking a position on this question, we strongly encourage the Department, should it craft further rulemaking for consumer reporting agencies, to recognize the distinct role that resellers play in the consumer

³⁰ Paul S. Calem & Chris Henderson & Jenna Wang, 2025, [Who Remains Unbanked in the United States and Why?](#), [Working Papers](#) 25-02, Fed. Reserve Bank of Phila.

reporting ecosystem. As mentioned below, resellers are exempt from, or have limited obligations in, situations where the CRAs best suited to serve consumers are those that maintain databases of consumer files.

i. Resellers Under the Law: A Distinction with a Difference

The Department should recognize and apply the differences between reseller CRAs and other CRAs. Resellers of consumer reports occupy a unique role in the consumer reporting ecosystem, and this distinction is codified in the FCRA. The FCRA establishes a broad definition of a consumer reporting agency (“CRA”) in § 603(f) (15 U.S.C. § 1681a(f)) and then creates statutory subclassifications for three of CRAs, including resellers.³¹ A reseller of consumer reports is defined in § 603(u) (15 U.S.C. § 1681a(u)). Under this definition, a reseller is a consumer reporting agency that

(1) Assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

(2) Does not maintain a database of the assembled or merged information from which new consumer reports are produced.

Since resellers are often viewed as wholesalers or go-betweens for data they did not create, the FCRA distinguishes resellers from other CRAs in the statute's operational provisions. For example, resellers have limited obligations and exemptions when it comes to identity theft,³² certain compliance procedures,³³ and dispute handling.³⁴

ii. Resellers and Operations

While resellers play an important role in the mortgage marketplace, many (and perhaps most) are small businesses, some of which are in their fourth generation of family ownership. Resellers are distinct in law because they are distinct in operations.

³¹ The other two subclasses of CRAs are nationwide CRAs, defined in § 603(p) (15 U.S.C. § 1681a(p)), and nationwide special CRAs, defined in § 603(x) (15 U.S.C. § 1681a(x)). Nationwide CRAs are also called “nationwide credit bureaus.”

³² §§1681c-1(f), 1681c-2(d).

³³ § 1681e(e)

³⁴ 1681i(a)(1)(A), (f).

While the [nationwide] CRAs gather, store, and sell credit information, [resellers] are separate entities that purchase information from the [nationwide] CRAs and merge the data into credit reports for third parties...In the context of mortgage lending, the resellers aggregate consumer credit data from the three CRAs and package it into a single mortgage credit report often referred to as 'the tri-merge credit report.'³⁵

For borrowers with a traditional credit history, lenders must try to obtain a tri-merge credit report for each borrower on the loan application.³⁶

The nationwide credit bureaus batch process tens of millions of pieces of information daily from lenders and creditors into their databases. In 2019, one of the nationwide credit bureaus reported that it processed more than two billion credit updates to its database each month for over 230 million credit-active consumers.³⁷ A second nationwide bureau said that it "delivered 2.3 billion consumer credit files – more than six million per day – to lenders."³⁸ This data covers nearly every consumer in the United States.

By contrast, many resellers individually process reports on consumers when they receive an order from a customer that pertains to a transaction initiated by that consumer. Resellers then gather information from the national credit bureaus and, using software and investigative review, develop the report at the instruction of the consumer for the user. This report is maintained for a short period of time in a reseller's system and archived after that time.

In the mortgage context, resellers provide the most comprehensive view of a consumer's credit history because, in a mortgage, the financial stakes in a lending decision are extraordinary.³⁹ The final rule created too low a bar for regulation. With the stroke of a regulatory pen, small businesses with a limited market role were put under the same regulatory burdens as multinational banks.

³⁵ [Credit Score Request for Input](#), Federal Housing Finance Agency, Dec. 20, 2017, 8 ("FHFA RFI").

³⁶ FHFA RFI, 9. "Fannie Mae refers to the tri-merge credit report as the 'Three in-file Merged Credit Report' in its Selling Guide, and Freddie Mac refers to the tri-merge credit report as a 'Three Repository Merged Credit Report' in its Selling Guide." *Id.*

³⁷ Who's Keeping Score? Holding Credit Bureaus Accountable and Repairing a Broken System, hearing before the H. Comm. on Fin. Serv., Feb. 26, 2019, [Serial No. 116-3](#), 6 (Statement of James M. Peck, President and CEO, TransUnion).

³⁸ *Id.*, 5 (Statement of Mark Begor, President and CEO, Equifax).

³⁹ The "tri-merge" credit report was supported by the FHFA Director, Bill Pulte, in a social media post in July 2025, <https://x.com/pulte/status/1942589271702962447>.

6. Registration, Reporting, and Oversight Requirements (Questions 17 Through 21)

A. Consumer Reporting Agencies Should Not Be Required to Register (Question 17)

While certain entities are required to register under the Department's regulations,⁴⁰ such a requirement for CRAs serves no consumer protection purpose. Some may argue that the purpose of registration is to enable the Department and consumers to know who the CRAs are. Yet not only do consumers have greater access to credit report information on websites and social media, but they are also entitled to more access to credit information from credit bureaus and lenders than ever before.

Unlike most other regulated entities, a user of a consumer report that takes an "adverse action" on a consumer based on a "consumer report," is required by law to provide an adverse action notice which must include "the name, address, and telephone number of the [CRA] that furnished the report to the user..."¹⁶ Consumers are entitled to a "risk based pricing notice" where lenders must provide consumers with a Risk-Based Pricing notice when a company grants credit on "material terms that are materially less favorable than the most favorable terms available to a substantial proportion of the consumers."⁴¹ Consumers are eligible for one free credit report per year per nationwide consumer reporting agency.⁴² Consumers are also entitled to free reports if they are unemployed and seeking employment, on public assistance, are fraud victims, or have fraud alerts on their credit reports.⁴³ Consumers can receive a free report if, for example, they were denied credit or insurance on the basis of the credit report.⁴⁴

The CFPB maintains a [list of consumer reporting companies](#) to "help [consumers] take advantage of [their] right[s] to review the information in [their] consumer reports, and dispute possible inaccuracies with companies as needed."⁴⁵ Unlike most other regulated entities, a user of a consumer report that takes an "adverse action" on a consumer based on a "consumer report," is required by law to provide an adverse action notice which must include "the name, address, and telephone number of the [CRA] that furnished the report to the user..."¹⁶

Thus, both federal and state regulators, as well as consumers, are empowered to identify, contact, and lodge concerns with CRAs. Such registration is not needed for an already highly regulated industry.

⁴⁰ Cal. Admin. Code [tit. 10, subch. 4, §§ 1001-1053](#).

⁴¹ [15 U.S.C. § 1681m\(h\)](#), [12 C.F.R. Part 222](#), [16 C.F.R. Parts 640 and 698](#).

⁴² [Id.](#), [1681j\(a\)](#).

⁴³ [Id.](#), [1681j\(c\)](#).

⁴⁴ [Id.](#), [1681j\(b\)](#).

⁴⁵ This 45-page list of "consumer reporting companies" is broader than "consumer reporting agencies" under the FCRA. Cons. Fin. Protection Bureau, List of Consumer Reporting Companies ("CFPB List of CRCs").

B. If the Department Considers Income for CRAs, it Must Recognize the Unique Nature of Resellers in Income Calculations, and Focus on Net Income (Question 18)

Unlike other CRAs and many other businesses, the unique nature of resellers means gross income should be treated differently. Specifically, if the Department considers revenue for CRAs, it should focus on net revenue, at least for resellers of consumer reports.

There is no clear definition of gross income in the two sections that the Department references, Cal. Admin. Code [tit. 10, § 1022 subd. \(f\)](#) and [§ 1040, subd. \(a\)](#). A starting point for gross income determination is “how much money do you make?” Resellers are unique in their financial operations, which is why the Department should consider net income, not gross income, if the Department intends to craft such a definition for CRAs. Resellers receive deceptively high total revenue from their end-user customers, but a large portion of that gross revenue is paid out to others through royalty payments. For example, FICO’s wholesale royalty is \$4.95 per score for mortgage originations,⁴⁶ a 41% increase from the prior year.⁴⁷ Many CRAs can manage revenue and expenses by adjusting staffing levels, negotiating more favorable rent terms, increasing remote work arrangements, switching to more cost-effective suppliers, and implementing other cost-saving measures. For most resellers, the cost of royalties for credit reports and scores is not optional, and while the quality of the services is high, the pool of suppliers is limited. Since a large portion of a reseller’s gross revenue does not belong to that reseller, it is inappropriate for the Department to consider gross income in any formula for resellers.

C. There is No Consumer Benefit for Requiring CRAs to Post a Bond (Question 20)

There is little to no benefit to be gained from requiring CRAs to post a bond. “Risk, with its resulting uncertainty, is an expensive factor in economic life,” and surety bonds step in to reduce risk for consumers.⁴⁸ A commercial surety bond is often reserved for companies or individuals who may have a history of disappearing before a consumer can collect on damages awarded in litigation. These companies or industries include organizations with historically suspect business practices, like pawnbrokers.⁴⁹ Bonding is also required in certain cases where

⁴⁶ FICO Blog, [FICO’s Royalty Pricing, Role and Adoption in the Mortgage Industry](#) Nov. 6, 2024 (viewed Sept. 3, 2025).

⁴⁷ Candyd Mendpza, [FICO credit score price hike: What does it mean for the mortgage industry?](#), Mortgage Professional Newsletter, Nov. 11, 2024.

⁴⁸ Willis D. Morgan, History and Economics of Suretyship, 12 Cornell L. Rev. 487, 499 (1927) Available at: <http://scholarship.law.cornell.edu/clr/vol12/iss4/5>.

⁴⁹ [Cal. Fin. Code § 21303](#). In November 1993, Sam Gonen, a Los Angeles pawnbroker since 1985 was the president of Collateral Lenders Inc., with two outlets in the San Fernando Valley and another in Beverly Hills, also was also a governor of the Assn. of Pawn Brokers in California. Gonen said that “the first problem is that we inherited a bad reputation that was created 100 years ago.” He added that “pawnshops used to be disreputable. People had a way of cheating the public and doing bad things. No ifs, ands or

tradesmen may be numerous, mobile, and hard to locate, like contractors.⁵⁰ The need to bond contractors may be especially great during natural disasters, such as wildfires, floods, and earthquakes.

Pawnbrokers, contractors, immigration consultants,⁵¹ tax preparers,⁵² notaries public,⁵³ and myriad other professions and occupations are also unlike CRAs because CRAs do not take money directly from consumers, reducing the risk of loss to consumers for violations of law.

Consumer reporting agencies do not share the same history as other industries, where the legislature has determined that consumers are at risk of nonpayment of judgments. Since there is no credible evidence that CRAs have failed or might fail to meet their obligations under federal and state law, bonding CRAs is unnecessary to protect consumers.

D. Consumer Reporting Agencies Should Not Be Required to Maintain Additional Records Beyond Those Already Required by Law, Nor Should Special Reporting Be Required of Consumer Reporting Providers (Questions 19 and 21)

Consumer reporting providers are required to maintain ample business records, as any business would. These companies also maintain substantial records that are unique to their status as CRAs. Records from any consumer reporting provider are always available to federal and state authorities under subpoena, civil investigative demand, or other means established by law. If the Department seeks certain records, it has the power to obtain them under these established procedures. General reporting for the sake of reporting to satisfy the curious provides no consumer or regulatory benefit.

The names of businesses and contact information (Question 21.a) are readily available to the public on the CFPB website, which maintains a list of consumer reporting companies, a list broader than just consumer reporting agencies as defined by the FCRA. Contact information is also accessible to the Department in the same format, as well as through corporate filings with state agencies. Easy access to this information means it serves no regulatory or consumer protection function, and the Department should not collect it.

but. Yes, it did happen. But that was 100 years ago when there were no regulations.” [Pawnbroker Disputes Myths, Defends Reputation of Business](#), L.A. Times, Nov. 30, 1993. His comment in 1993 was around the time of the passage of S.B. 939 by Sen. Dills, creating licensure of pawnbrokers.

⁵⁰ [Calif. Bus. & Prof. § 7071.4](#). “To gamble on a contractor whose level of commitment or qualification is uncertain or who could become bankrupt halfway through the job can be a costly decision.” [The Importance of Surety Bonds in Construction](#), Surety Information Office.

⁵¹ [Calif. Bus. & Prof. § 22441.1](#)

⁵² [Cal. Gov't. § 22250.1](#)

⁵³ [Cal. Gov't. § 8212](#).

Information about a business's size, operations, or dealings outside of California, including non-California consumers, is beyond the Department's authority (Questions 21.b - 21.d, and by implication, Question 21). The size of a business, however measured, does not serve any regulatory or consumer protection function, and the Department should not collect it.

Much of the information sought in Question 21 is proprietary, trade secret information that would expose sensitive, private business dealings to a government agency, with no clear understanding of how that information will be protected, if at all, from competitors and others. Thus, the Department should not collect this information.

E. Consumer Dispute and Complaint Information Should Not Be Disclosed to the Department, and If They Are Required, Resellers Should Be Exempt from Such Disclosures (Questions 21.f Through 21.n)

The dispute information the Department seeks to collect does not serve any regulatory or consumer protection purpose. Consumer dispute information is maintained by and available through the CFPB, and the Department has ready access to that information.

Should the Department collect this information, it should remember that resellers of consumer reports do not, by definition, maintain files on consumers, and the disputes resellers receive are almost always about information provided to them by another consumer reporting agency. Thus, resellers should not be exempt from dispute disclosure requirements.

7. Conclusion

Thank you for the opportunity to comment. The Department should tread cautiously in crafting any new rule for the consumer reporting ecosystem. There are significant federal and state laws that widely and deeply cover consumer reporting. Any additional rules would have little to no appreciable consumer benefit. However, should the Department undertake such rulemaking, it should consider the unique role resellers play in the consumer reporting marketplace and their special treatment under the law, as discussed below. Also, to the extent that there is additional regulation on CRAs, it should be proportional to the size, scope, function of the CRA, and the type of CRA.

Consumer reporting facilitates consumers' needs by opening access to mortgages, apartments, and beyond. If the Department proceeds with rulemaking, we hope our comments will be considered, especially regarding the unique role resellers play in the marketplace and

under the law. In many cases, resellers should be exempt from reporting and oversight requirements, as well as other obligations the Department may impose. We also hope that any Departmental discussion of specialty consumer reporting will be consistent with existing federal law.

Sincerely,

A handwritten signature in blue ink, appearing to read "EJ Ellman", with a long horizontal flourish extending to the right.

Eric J. Ellman
President