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April 13, 2020

The Honorable Kathy Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Dear Director Kraninger,

We, the undersigned Attorneys General of Pennsylvania, California, Colorado, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Puerto Rico, Rhode Island, Vermont, Virginia, Washington, and Wisconsin, write to urge the Consumer Financial Protection Bureau (CFPB) to withdraw its recent guidance¹ that it will step back from enforcing certain requirements of the Fair Credit Reporting Act (FCRA) during the COVID-19 crisis.

In addition to its enormous health toll, the COVID-19 global pandemic is causing significant economic disruption as well. Businesses are closing—either temporarily or permanently—and millions of workers have already filed claims for unemployment compensation. If we hope to have a quick economic recovery when this crisis is over, American consumers must be fully equipped to reenter the market. The status of Americans' credit reports will be vital to ensuring strong participation in the economy. The importance of protecting consumers' credit is even greater during this crisis.

That is why we oppose your recent announcement suggesting that: (1) the CFPB will not enforce the CARES Act's amendment to the FCRA that requires lenders to report as current any loans that are subject to a COVID-19-related forbearance or other accommodation;² and (2) the CFPB will no longer take enforcement or supervisory actions against consumer reporting agencies (CRAs) when they fail to investigate

¹ CFPB, *Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act* (Apr. 1, 2020), https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf.

² As long as the loans were current prior to the accommodation.

consumer disputes in a timely fashion.

First, the CFPB's announcement that it will step back from enforcing the CARES Act's requirements could discourage consumers from taking advantage of the forbearances and other accommodations that lenders are offering. It also contradicts your previous statements that you intend to use guidance to articulate "clear rules of the road for regulated entities that promote competition, increase transparency, and preserve fair markets."³ Lenders that work to comply with the CARES Act will be at a competitive disadvantage to those that flout its furnishing requirements, harming both honest businesses and consumers.

Second, allowing CRAs to ignore the statutory 30-day timeline for investigating disputes puts consumers at risk. At a time of significant economic uncertainty, it is incumbent upon both CFPB and the CRAs to be even more vigilant in ensuring that American consumers are protected against false and incorrect information on their credit reports that could prevent them from renting or buying a home, purchasing a new car, or opening a credit card account.

The CARES Act provides critical protections to consumers to enable them to weather this period of economic turbulence without incurring lasting harm to their credit scores. For example, it provides a 180 to 360-day grace period for homeowners with federally-backed mortgages. Borrowers with these loans do not have to make payments during this grace period, and their lenders are prohibited from furnishing negative credit information on these skipped payments.

Moreover, many financial institutions are voluntarily offering relief that goes beyond what the CARES Act requires, extending these protections to more borrowers and on more types of loans. For example, through the Pennsylvania Office of Attorney General's PA CARE Package program,⁴ financial institutions pledge to extend grace periods (and the ban on furnishing negative credit information) to all types of consumer loans, not just federally-backed mortgages.

Another reason to vigorously enforce the FCRA and to require vigilance on the part of CRAs is the ubiquity of COVID-19 (and stimulus) scams that are quickly increasing in prevalence. The States, the FBI, the FTC, and DOJ have already received thousands of complaints relating to phishing and other scams designed to gather sensitive personal and financial information that may also lead to identity theft—which often has dire consequences for a consumer's credit. The CRAs must be vigilant in their consumer

³ E.g. Kraninger, Kathleen, *Speech at the Bipartisan Policy Center*, <https://www.consumerfinance.gov/about-us/newsroom/kathleen-kraninger-director-consumer-financial-protection-bureau-bipartisan-policy-center-speech/> (Apr. 17, 2019).

⁴ See <https://www.attorneygeneral.gov/COVID19/>.

protection activities when consumers report fraudulent activity and request relief for fraudulent or inaccurate information associated with their credit reports.

These new laws and initiatives will help consumers survive this crisis financially, but it is likely that some mistakes will be made in credit reporting as furnishers and CRAs learn how to properly implement these new requirements. That is why the processes required by the FCRA and enforced by CFPB and state attorneys general are so important. CRAs must quickly respond to disputes to ensure fair and accurate credit reporting—as they are legally required to do.

CRAs only have one job: to maintain accurate credit reports. Now is not the time to let them fall asleep at the switch. They must be vigilant and protect consumers' credit. Especially during this crisis, we must hold them accountable when they fail to respond to, and correct, errors on consumers' credit reports.

Consumers and CRAs should know that even if CFPB refuses to act, our states will continue to defend our consumers and families throughout this crisis. We will not hesitate to enforce the FCRA's deadlines against companies that fail to comply with the law.

During this crisis, it is up to every single government agency to do its part to protect Americans' health and financial security. We Attorneys General will keep doing our jobs. The CFPB should get back to doing its job by immediately withdrawing its recent guidance and resuming vigorous oversight of consumer reporting agencies and enforcement of the FCRA.

Sincerely,



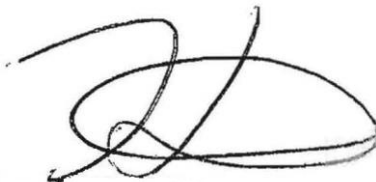
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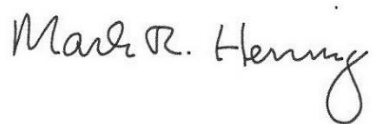
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