STATEMENT OF

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House of Representatives

ON

"Examining the Uses of Consumer Credit Data"

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Chairman Capito, Ranking Member Maloney and members of the Subcommittee, thank you for this opportunity to appear before you. For the record my name is Stuart Pratt, president and CEO of the Consumer Data Industry Association (CDIA).

CDIA is an international trade association of more than 180 corporate members. Its mission is to enable consumers, media, legislators and regulators to understand the benefits of the responsible use of consumer data which creates opportunities for consumers and the economy. CDIA members provide businesses with the data and analytical tools necessary to manage risk. They help ensure fair and safe transactions for consumers, facilitate competition and expand consumers' access to a market which is innovative and focused on their needs. Their products are used in more than nine billion transactions each year.

We commend you for holding this hearing, and welcome the opportunity to share our views.

My comments will focus on the following points:

- An overview of the types of data used to build a consumer's credit history.
- The importance of establishing a history of good credit for consumers.
- The quality of data in our members' databases and dispute resolution procedures.
- The vibrant market of data sources available for risk decisions.
- The importance of preserving the integrity of the credit reporting system.

An overview of the types of data used to build a consumer's credit history.

The term "credit report" is not defined by the Fair Credit Reporting Act (15 U.S.C. §1681 *et. seq.*) The FCRA defines the term "consumer report" and the traditional credit reports produced by nationwide consumer reporting agencies meets this definition. Credit reports include:

- Identifying Information – Name (first, last, middle), current and previous addresses, social security number, date of birth.
- Credit History – History of managing various loans issued by retailers, banks, finance companies, mortgage companies and other types of lenders.
- Public Records – Judgments, bankruptcies, tax liens.
- Accounts Placed with a Collection Agency – these accounts are reported by third-party debt collectors who attempt to collect delinquent debts owed to a service provider or lender.
- Inquiries – A record of all who have a permissible purpose under law and have access to a consumer's report.

Note that credit reports do not contain information on an individual's medical condition, race, color, religion, or national origin. It is important to note that our US credit reporting systems are full-file and thus they include both positive and negative payment history on a consumer. Full-file credit reporting is inherently fairer for consumers because it ensures that there is a clear record of not just missed payments but all on-time payments.

The importance of establishing a history of good credit.

A consumer's credit history starts with the very first relationship a consumer has with a lender. It may be when a parent adds a son or daughter as an authorized signatory on a credit card or when a young adult makes an application for his or her very first loan. Ensuring that consumers understand how lenders consider their management of credit is critical and certain fundamental principles remain:

- Pay your bills on time.
- Don't run up your credit cards to their limits.

Never before in the history of our country has there been a greater degree of transparency when it comes to the information available to enable consumers to understand consumer credit reports and their rights under the FCRA. In particular CDIA applauds its members for their market solutions which make available to consumers unlimited access to credit reports, credit scores, as well as providing additional information about the credit, reporting industries. These market solutions push alerts to consumer's smart phones when data has changed on their report and also warn consumers when there's a risk of identity theft.

Under the Fair Credit Reporting Act consumers also have a right to an annual free credit file disclosure from each of the nationwide consumer credit reporting agencies: Equifax, Experian and TransUnion. We estimate that more than 15 million consumers view at least one of the reports each year and an average of more than 30 million disclosures are

issued annually. Since December of 2004 hundreds of millions of disclosure have been issued to consumers.

For some years consumer advocates have been measuring the knowledge consumers have regarding their credit reports and how credit scores used by lenders analyze data. In particular VantageScore and the Consumer Federation of America have partnered on a project to reach consumers and measure their knowledge. The trends identified through this effort are very encouraging. Consider the following excerpts drawn from the CFA News Release issued on May 14, 2012:

"A large majority of consumers now know many of the most important facts about credit scores, for example:

- *Mortgage lenders and credit card issuers use credit scores (94% and 90% correct respectively).*
- *Many other service providers also use these scores -- landlords, home insurers, and cell phone companies (73%, 71%, and 66% correct respectively).*
- *Missed payments, personal bankruptcy, and high credit card balances influence scores (94%, 90%, and 89% correct respectively).*
- *The three main credit bureaus -- Experian, Equifax, and TransUnion -- collect the information on which credit scores are frequently based (75% correct).*
- *Consumers have more than one generic score (78% correct).*
- *Making all loan payments on time, keeping credit card balances under 25% of credit limits, and not opening several credit card accounts at the same time help raise a low score or maintain a high one (97%, 85%, and 83% correct respectively).*
- *It is very important for consumers to check the accuracy of their credit reports at the three main credit bureaus (82% correct).*

Somewhat surprising was the fact that most consumers understand new, and fairly complicated, consumer protections regarding credit score disclosures. When asked when lenders who use generic credit scores are required to inform borrowers of these scores, large majorities correctly identified three key conditions -- after a consumer applies for a mortgage (80% correct), whenever a consumer is turned down for a loan (79% correct), and on all consumer loans when a consumer does not receive the best terms including the lowest interest rate available (70% correct).

"Increases in consumer knowledge probably reflect in part the increased public attention given to credit scores because of the new protections," noted CFA's Brobeck. "The improvements may also be related to increased efforts of financial educators, including our creditscorequiz.org, to inform consumers about credit reports and scores," he added."

It is good news that consumers' knowledge of credit reports and how scores analyze credit report data is improving. However it is critical that consumers remain vigilant and do not fall prey to fraudulent credit repair schemes. Fraudulent credit repair agencies have a business model built around the premise of seeking to have accurate, predictive data deleted from a consumer's credit report. The quote from an October 13, 2011 FTC press release regarding a public investigation of a credit repair operator is illustrative of the problem and challenge our members face:

> *"The FTC alleges that the defendants made false statements to credit bureaus disputing the accuracy of negative information in consumers' credit reports. In letters to credit bureaus, which RMCN did not show to consumers, the firm typically disputed all negative information in credit reports, regardless of the information's accuracy. RMCN continued to send these deceptive dispute letters to credit bureaus, even after receiving detailed billing histories verifying the accuracy of the information, or signed contracts from creditors proving the validity of the accounts.*
>
> ***The complaint alleges that RMCN misrepresented to consumers that federal law allows the company to dispute accurate credit report information****, and that credit bureaus must remove information from credit reports unless they can prove it is accurate. In the company's words, credit bureaus must "prove it or remove it." RMCN charged a retainer fee of up to $2,000 before providing any service, and falsely told consumers that Texas law allows credit repair organizations that are registered and bonded to charge an advance fee."*

CDIA applauds the actions of the Federal Trade Commission and state attorneys general

to protect consumers through their enforcement of the Credit Repair Organizations Act. These enforcement efforts must continue. But the CFA survey of consumers speaks clearly to the need to also continue to educate consumers. Consider the following finding:

> “Over half (51%) [of consumers] incorrectly believe that credit repair companies are "always" or "usually" helpful in correcting credit report errors and improving scores. Experts agree that credit repair companies often overpromise, charge high prices, and perform services that consumers could do themselves.”

Ultimately credit reports are an advocate for all of us as consumers. Credit reports contain an accounting of the good choices and hard work of Americans. They speak for consumers when they are applying for loans and the lenders simply don’t know who they are or how they’ve paid their bills in the past. These reports replace bias and assumptions with a foundation of facts that tell our story and ensure that we are treated fairly.

The quality of data in our members’ databases and dispute resolution procedures.

In May of 2011 the PERC completed and released a CDIA-commissioned study of the quality of data found in the databases of nationwide consumer credit reporting agencies. Since Dr. Turner, the president and CEO of PERC, is sitting at the witness table today I will defer to him to provide a more fulsome report on his organization’s findings.

But what’s important about this work is that it was truly an arms-length, let-the-chips-fall-where-they-may project which was the only condition under which Dr. Turner would agree to conduct the study. Our members had no reservations about this requirement.

PERC used two measures of what might be a material error in a consumer's credit report. First they used VantageScore to measure the point change between credit reports before and after a dispute and reinvestigation process. In this instance they found that only 0.93% of all credit reports examined had one or more disputes which resulted in a credit score increase of 25 points. However, Dr. Turner recognized that in a risk-based-pricing context even a single point change could make a difference for a consumer who is on the edge of qualifying for a better rate. Because of this, the PERC team also measured material errors by considering how often a consumer moved from a higher priced pricing tier to a lower one. Only one half of one percent (0.51%) of all credit reports examined by participants had credit scores that move to a higher credit risk tier (lower price). This study puts to rest the debate about the accuracy of our members' data. We have attached with our testimony the Key Findings put together by PERC as well as a link to the full study are in Appendix I of this testimony.

As a further statement of our members' confidence in their systems and the quality of their data, they also chose to voluntarily cooperate with the Federal Trade Commission study of the accuracy of credit reports. They provided the agency with free-of-charge data extracts as dictated by the agency's researchers in the Bureau of Economics and we expect to see the results of the FTC's findings later this fall.

CDIA applauds its members for facing the hard questions about data quality. The results of our members' decisions are impressive and expected.

As for the question of dispute resolution procedures, consumers' rights are very clear under the FCRA. Below is an explanation of those rights prepared by the Federal Trade Commission:

You have the right to know what is in your file. You may request and obtain all the information about you in the files of a consumer reporting agency (your "file disclosure"). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:

- *a person has taken adverse action against you because of information in your credit report;*
- *you are the victim of identity theft and place a fraud alert in your file;*
- *your file contains inaccurate information as a result of fraud;*
- *you are on public assistance;*
- *you are unemployed but expect to apply for employment within 60 days.*

In addition, [since] September 2005 all consumers [have been] entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.ftc.gov/credit for additional information.

You have the right to dispute incomplete or inaccurate information. If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.ftc.gov/credit for an explanation of dispute procedures.

Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information. Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

The staff and systems used by our members to handle consumer requests for reinvestigations of data reported to them are first-class and this is not merely an opinion.

The PERC data quality study discussed above measured consumer satisfaction with the reinvestigation process and fully 95% of consumers were satisfied with the results.

Further indication of our members' success in meeting consumers' needs can be found in a 2008 report to congress regarding complaints submitted to the Federal Trade Commission. Note in the excerpt below that consumers appeared to be complaining to the FTC concurrent with the submission of a dispute directly to a consumer credit reporting agency. More than 90% of the disputes were resolved when submitted directly to the CRA, a percentage that is very consistent with the findings of PERC

The data indicate that a significant number of disputes were resolved in the consumer's favor (i.e., the disputed information was either removed from the file or modified as requested). The data further indicate, however, that in most cases, the favorable resolutions took place as part of the normal dispute process, and not as a result of the referral program. Specifically, the CRAs' reports show that over 90 percent of disputes that were resolved "as requested by the consumer" were resolved before the CRA processed the referral from the Commission.[1]

It is also important to note that in 2003 consumers were given the right to dispute information furnished to a consumer reporting agency directly with the furnisher of the data (e.g., lender, etc.). A March 2012 FTC report on a survey of consumers indicated that 46% chose to dispute an item of information directly with the data furnisher rather than with a consumer credit reporting agency. It is our view that consumers will continue to grow in their understanding of this right and will more often dispute with the data furnisher.

[1] See page 5 of the FTC Report to Congress Submitted on December 29, 2003: http://www.ftc.gov/os/2008/12/P044807fcracmpt.pdf

There is a vibrant market of alternative data sources available today.

In 2004 the FTC's FACT Act report on "Common Unreported Transactions" stated the following:

The concern prompting this request is that many Americans may be missing out on the benefits associated with the consumer reporting system even though they may have a demonstrable history of financial responsibility.

Our members didn't wait for this FTC report to start work on the expansion of data that could empower consumers, improve transparency and create better risk management decisions. Members of the CDIA are building new data bases, acquiring data assets and deploying new analytical technologies that solve problems now. Consider the following limited set of examples of data that may or can contribute to risk decisions now and in the future:

- Asset data such as home ownership, auto or investments.
- Utility and telecommunication services payments
- Rental payments
- Remittance transactions
- Payments regarding non-traditional loans, demand deposit account loans and short-term-loan
- Pre-paid card data
- Demand deposit account activity including direct bill-pay transactions

- Income data and models for income estimation

Competition is driving the heavy private-sector investment in a better future for our country and CDIA is proud of its members' ambitious efforts to meet the needs of consumers, to give them credit for their careful management of other types of payments and ensure that the market place is accessible to all consumers. With this positive context in mind, it is important for this Subcommittee to know that in the context of our voluntary system of data furnishing some data sources remain on the sidelines because of concerns about the regulatory as well as statutory burdens, restrictions and liability risks associated with reporting information to a consumer reporting agency.

In closing this discussion, the Subcommittee asked CDIA to comment on H.R. 6363, The Credit Access and Inclusion Act. Since this bill has only been available in final form for a few days CDIA cannot comment on it until we have had an opportunity to discuss it with all sectors of our membership. We thank the committee for asking for our views, however.

The importance of preserving the integrity of the credit reporting system.

The Committee has also asked us to comment on H.R. 2086, The Medical Debt Responsibility Act of 2011. The bill imposes a duty on consumer reporting agencies to delete medical debts which are less than or equal to $2,500 within 45 days of the date that such debts have been paid or settled. Consistent with testimony we have offered in other

congresses, we oppose this bill for a number of reasons which we discuss below.

Finding number one in Section 2 of the bill states that “medical debt is unique, and Americans do not choose when accidents happen or when illness strikes.”

An accurate accounting of debts owed and debts paid is always a combination of debts a consumer chooses to incur and some which are the result of events that may well be beyond his or her control, but which are nonetheless events that have an effect on that consumer’s ability to pay in the future. Lenders and score developers can and do make differing decisions about how such data should be considered, but it is wrong to conclude that because some debts are not “chosen” that the debt is not relevant and predictive. Further, the finding ignores at least one population of consumers who are making choices for elective procedures and surgeries. For example, according to the American Society of Aesthetic Plastic Surgery 2.4 million consumers underwent botox injections in 2010. The ASPS also estimated that 750,000 men underwent surgical and nonsurgical procedures in this same year. Examples of elective surgeries and procedures include liposuction, cosmetic eyelid surgery, facelifts, forehead lifts, lip augmentation, nose surgery, tummy tucks, dermabrasion, laser hair removal, laser skin resurfacing, chemical peels, and tooth whiteners. There is nothing wrong with any of these procedures and consumers enjoy the results. But for the consumer who is interested in looking better, these choices are no different than making a purchase in a retail store and the debts should not be deleted. Finally the finding assumes that there is no population of consumers who have the ability to pay but simply choose not to do so. This may not be the largest population, but to

allow them to ignore a debt and then only pay it in order to have it deleted rewards the wrong value and is a poor policy outcome.

Finding number three states that “[a]ccording to credit evaluators, medical debt collections are more likely to be in dispute, inconsistently reported, and of questionable value in predicting future payment performance because it is atypical and nonpredictive [sic].” The challenge for this hearing in responding to this assertion is that we do not have a credit score developer who can respond to the assertions in finding number two and we also do not have a lender who owns or services loans or secondary market investors who depend on primary market lending decisions to comment on what data is important to them for a lending decision. We would urge the committee to consult with both communities to learn more about how such data is predictive.

The precedent of allowing for the deletion of a delinquent account when paid poses a great risk to the credit reporting system. A credit history ceases to be a full and complete history if the door is opened to exceptions for the deletion of valid debts that are delinquent but then paid. The Great Recession drove home a lesson time and time again and that is that sloppy underwriting practices which ignored predictive data contributed to the extent of the crisis we faced then and the recovery on which we are now focused. The principle of delete-when-paid allows a consumer to not pay bills until such time as it is important for him or her to apply for a loan. Broadly applied a delete-when-paid principle would lead to the white washing of credit histories and seriously impair the primary market’s ability to underwrite risk. This result likely also leads to a loss of

confidence by secondary market investors in the safety and soundness of the debts underlying securities. Since we do not have as a part of this record empirical evidence of the consequences of deleting paid medical debts that are equal to or below $2,500, were congress to enact this amendment into law, it would be doing so based on a hypothesis and not evidence. Since risk-management concerns have not been accounted for and we urge the committee to consult with other industry sectors such as financial services, insurance, and telecommunications. Their views are vital to this inquiry.

There are also serious technical drafting issues with this bill as written. The bill states that its purpose is "to exclude from consumer credit reports medical debt that had been characterized as delinquent, charged off, or debt in collection for credit reporting purposes and has been fully paid or settled." This means that nationwide consumer credit reporting agencies would have to "know" when a portion of a credit card balance is associated with medical debt and to know when this portion of the outstanding balance is paid. Further we would have to know when a third-party debt collector is reporting a medically related debt, even when it is ignoring its duties under FCRA Section 623(a)(9) where it must identify itself as a medical information furnisher. A lender, who provides a range of loan products for different markets, could provide a specialized program of financing for an orthodontist. Nothing in the lender's name or actions would suggest that the debt being reported is associated with a medical procedure but the nationwide consumer credit reporting agency is nonetheless required to comply with this new duty. In reality it is not possible to comply with the duty as proposed and further, since this bill amends Section 605 of the FCRA, it creates a duty that is tied to private rights of action,

including significant class action risks.

In closing, CDIA’s members will never shy away from a thoughtful, probative discussion of the quality of data that is being reported to it, but this bill is technically flawed, it sets a precedent that challenges the historical nature of data and it is based on allegations, not on empirical evidence. Equally important, this discussion cannot happen without the lending community’s views as well as those of other users of consumer reports which are underwriting risks. It is for these reasons we cannot support this bill, though we are very grateful to the Subcommittee for seeking our testimony.

Thank you for this opportunity to testify. I am happy to answer any questions.

Appendix I

Key Findings

This report reviews the accuracy of data in consumer credit reports from the three major nationwide consumer reporting agencies (CRAs).
It also measures the credit market impact upon consumers with modifications to their credit reports.

Key findings from this research include:

Impact of Modifications on Credit Scores: Of all credit reports examined:
0.93 percent had one or more disputes that resulted in a credit score increase of 25 points or greater;
1.16 percent had one or more disputes that resulted in a credit score increase of 20 points or greater; and
1.78 percent had one or more disputes that resulted in a credit score increase of 10 points or greater.

Material Impact of Credit Report Modifications:
As noted above, less than one percent (0.93 percent) of all credit reports examined by participants prompted a dispute that resulted in a credit score adjustment and an increase of a credit score of 25 points or greater. More significantly, onehalf of one percent (0.51 percent) of all credit reports examined by participants had credit scores that moved to a higher “credit risk tier” as a result of a modification. This metric is the best gauge of the materiality of credit report modifications, and suggests that consequential inaccuracies are rare. Credit report modifications that result in material impacts are exclusively modifications of tradelines, that is, of credit, collection and public record account data.

Disputants Satisfied with Process:
95 percent of disputing participants were satisfied with the outcomes of their disputes, suggesting widespread satisfaction among participants with the FCRA dispute resolution process.

Tradeline Dispute Rate:
Of the 81,238 credit, collections, and public record tradelines examined, 435, or less than 1 percent (0.54 percent), contained information that was disputed.
It should be mentioned that 19.2 percent of the credit reports examined by consumers were set aside as containing one or more pieces of header or tradeline data that a consumer believed could be inaccurate. Of note, 37% of these potential disputes only related to header, or “above the line,” information that could have no bearing on a credit score (e.g., the spelling of a former street address or maiden name).

Source: http://perc.net/files/DQreport.pdf