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September 18, 2009

The Honorable Michael McRaith

Chair, NAIC Property and Casualty Insurance Committee

The Honorable Kim Holland

Chair, NAIC Market Regulation and Consumer Affairs Committee

Dear Commissioners McRaith and Holland:

I write on behalf of the Consumer Data Industry Association (CDIA) to offer comments regarding the concept of regulating entities that provide credit-based insurance scores as advisory organizations. We are happy to be asked to provide a comment, although we regret we only had four days notice in which to offer that comment.

CDIA was founded in 1906 and is the international trade association that represents over 200 consumer data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, check verification, fraud prevention, risk management, employment reporting, tenant screening and collection services. Our members help their customers more effectively manage risk using precise, current, and reliable information.

CDIA members are consumer reporting agencies and the regulation that goes along with being a consumer reporting agency means that no further regulation as an advisory organization is necessary. Further, there has not been a demonstrated need to warrant further regulation of consumer reporting agencies as advisory organizations.

Consumer reporting agencies are regulated by the federal Fair Credit Reporting Act (FCRA) and by a majority of states which have laws also regulating these agencies. The touchstone of the FCRA is the accuracy obligation of consumer reporting agencies. The law requires that consumer reporting agencies maintain reasonable procedures to assure maximum possible accuracy.

In addition to the accuracy obligations imposed upon consumer reporting agencies by federal and state law, federal law imposes restrictions on those that furnish data to consumer reporting agencies. For example, furnishers cannot provide data they know or have reasonable cause to believe is inaccurate. Furnishers are required to correct and update information. Consumers have a right to dispute information on their credit reports with consumer reporting agencies and the laws require dispute resolution in not more than 30 days (45 days in certain circumstances). If a dispute cannot be verified then the information must be removed in the consumer's favor. Under the FACT Act, consumers will soon be able to file disputes directly with the data furnisher. In 2004 the FTC reported to Congress that the FACT Act "imposed a host of new requirements that, when fully implemented, should further enhance the accuracy and completeness of credit reports."

There is a substantial body of federal and state consumer reporting regulation and corresponding judicial interpretations from federal and state jurisdictions. All of this regulation is more than sufficient for consumer reporting agencies and no further regulation as an advisory organization is necessary. Further, there has not been a demonstrated need to warrant further regulation of consumer reporting agencies as advisory organizations.

We hope that this comment is helpful to you. We welcome questions any time.

Sincerely,

Eric J. Ellman
Vice President, Public Policy and Legal Affairs

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