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September 22, 2025

VIA ELECTRONIC SUBMISSION AT REGULATIONS.GOV

Russell Vought
Acting Director
Consumer Financial Protection Bureau
1700 G Street N.W.
Washington, D.C. 20552

**Re: Advance Notice of Proposed Rulemaking and Request for Comment
Concerning Larger Participant Rule for the Consumer Reporting
Market (Docket No. CFPB-2025-0031)**

Dear Acting Director Vought:

We, the undersigned attorneys general for eighteen states and the District of Columbia (the “States”), write in response to the Consumer Financial Protection Bureau’s (“CFPB”) advance notice of proposed rulemaking and request for comment titled “Defining Larger Participants of the Consumer Reporting Market,” concerning whether to amend the CFPB’s test for determining which consumer reporting entities are “larger participants” subject to CFPB supervision (“ANPR”).¹ The CFPB is contemplating raising the larger participant threshold to significantly reduce the number of consumer reporting entities under its supervision. For the reasons discussed in detail below, the CFPB should not do so.

The consumer reporting industry touches the lives of hundreds of millions of Americans in the financial marketplace. It is also of fundamental importance to the functioning of other consumer financial products and services. When the consumer reporting market does not function properly consumers are harmed in nearly area of life, including in their ability to access credit, obtain employment, rent housing, acquire insurance, and open bank accounts.² Yet, the consumer reporting industry remains one of the riskiest markets in the country. The system is plagued by inaccuracies, and consumers continue to report trouble exercising their rights under

¹ See *Defining Larger Participants of the Consumer Reporting Market, Advance Notice of Proposed Rulemaking*, 90 Fed. Reg. 38409 (proposed Aug. 8, 2025) (to be codified at 12 C.F.R. 1090) (“ANPR”).

² See CFPB, *List of Consumer Reporting Companies*, Jan. 25, 2025, available at <https://www.consumerfinance.gov/data-research/research-reports/2025-consumer-reporting-company-list>.

the Fair Credit Reporting Act (FCRA) to dispute incorrect information on their credit reports.³ In 2024, consumers sent more than 2.7 million complaints to the CFPB about consumer reporting issues.⁴ This accounted for 85% of all CFPB consumer complaints on any topic.⁵ Many complaints related to smaller and specialty consumer reporting companies. In the face of the continuing flood of consumer complaints, reducing the CFPB’s supervisory oversight over the market is the wrong decision. It is also inconsistent with the CFPB’s statutory obligation to maintain a risk-based supervision program. And the justifications for doing so set out in the ANPR are meritless.

I. Summary of the ANPR

The CFPB issued the ANPR seeking information as to whether to propose a rule amending the test to define “larger participants” in the consumer reporting market to reduce the number of consumer reporting entities under CFPB supervision. The CFPB is considering raising the threshold for larger participant status from \$7 million in annual receipts from consumer reporting activities to \$41 million.⁶ The CFPB estimates that this would leave approximately six larger participants in the market that would be subject to CFPB supervision.⁷ As justification for the potential change, the CFPB states that it “is concerned that the benefits of the current threshold may not justify the compliance burdens” for some supervised entities, and that “the current threshold may be diverting limited Bureau resources to determine whom among the universe of providers may be subject to the Bureau’s supervisory authority and whether these providers should be examined in a particular year.”⁸ The CFPB asserts that the current \$7 million larger participant threshold set in 2012 was informed by the Small Business Administration’s (SBA) \$7 million threshold for credit bureau small business categorization, which in that year was set at \$7 million in relevant revenues, and which is now set at \$41 million in relevant revenues.⁹ The CFPB solicits input regarding the appropriateness and calculation of the current threshold and how changing the threshold would impact the CFPB’s capabilities, affect consumers and alter the compliance costs and behavior of credit reporting entities.¹⁰

II. The States’ Objections to the ANPR Proposal

A. Reducing Consumer Reporting Supervision is Inconsistent with the CFPB’s Statutory Obligation to Maintain a Risk-Based Supervision Program

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 11-203, 124 Stat. 1376 (2010) (“Dodd-Frank”) provides that the CFPB “*shall*” maintain a supervision program that is “based on the assessment by the Bureau of the risks posed to consumers in the

³ Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*

⁴ CFPB, *Consumer Response Annual Report January 1 – December 31, 2024*, May 1, 2025, available at <https://www.consumerfinance.gov/data-research/research-reports/2024-consumer-response-annual-report>.

⁵ *Id.*

⁶ See 12 C.F.R. 1090.104(b).

⁷ ANPR *supra* n. 1 at 38409.

⁸ *Id.*

⁹ *Id.* at 38410-11.

¹⁰ *Id.* 38411-12.

relevant product markets.”¹¹ To aid the CFPB in fulfilling its obligation to supervise the riskiest entities the Dodd-Frank Act provides the CFPB supervision authority over participants in certain enumerated markets, as well as entities in other markets that the CFPB defines as “larger participants.”¹² Reducing the number of supervised entities to six would be an abdication of the CFPB’s statutory obligation to maintain a risk-based supervision program. Consumers will be harmed if the CFPB does so.

First, as noted above, the persistently high volume of consumer-reporting related consumer complaints underscores the need for effective supervision of the industry. Reducing supervisory oversight over an industry responsible for 85% of all CFPB complaints cannot be squared with the CFPB’s obligation to conduct its supervision program in a risk-based manner. Reducing the scope of the CFPB’s supervision will de-incentivize credit reporting entities to take measures to ensure that consumers’ credit reports are accurate and that consumers can exercise their rights under the FCRA. The CFPB’s ability to respond to incidents of consumer harm or market failures would be crippled.

Second, the ANPR’s proposal to reduce the number of supervised entities to six would leave entire categories of specialty consumer reporting entities that collect consumers’ most sensitive personal information unsupervised. For example, the CFPB’s non-exhaustive list of credit reporting agencies includes consumer reporting entities focused on areas such as employment screening, tenant screening, bank account access, medical history, and the access to basic utilities such as electricity, gas, and water.¹³ Abandoning supervision over the collection of consumers’ most personal information in these areas of critical importance is not consistent with a risk-based supervision approach.

Third, the CFPB’s supervision and enforcement record reflects heightened risk in the consumer reporting market that necessitates robust supervision across the market. The CFPB noted in a recent edition of Supervisory Highlights that examinations have found that “[i]naccuracy in the credit reporting system is a long-standing issue that remains a problem today.”¹⁴ Specifically, CFPB examinations have identified significant violations committed by specialty consumer reporting entities, such as employment and tenant screening agencies, that would be excluded from supervisory oversight under the ANPR proposal. Such violations include failures to ensure that consumer reporting data is accurate, and failures to remove data from credit reports that were the result of identity theft.¹⁵ Similarly, the CFPB has brought enforcement actions against smaller specialty credit reporting agencies that underscore the need for supervision of those companies.¹⁶

¹¹ 12 U.S.C. § 5514(b)(1) (emphasis added).

¹² 12 U.S.C. § 5514(a)(1)(B), 12 U.S.C. § 5514(a)(2).

¹³ CFPB, *List of Consumer Reporting Companies*, *supra* n. 2.

¹⁴ CFPB, *Supervisory Highlights: Consumer Reporting Companies and Furnishers*, Issue 32, Spring 2024, April 8, 2024, at 2, available at <https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-issue-32-spring-2024>.

¹⁵ See e.g., CFPB, *Supervisory Highlights, Consumer Reporting Special Edition*, Issue 20, Fall 2019, December 9, 2019, at 15, 17, 20, available at <https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-fall-2019>.

¹⁶ See, e.g., Complaint, Bureau of Consumer Financial protection v. Sterling Infosystems Inc, No. 19-cv-10824, Nov. 26, 2019, available at https://files.consumerfinance.gov/f/documents/cfpb_sterling-infosystems-inc_complaint_2019-11.pdf (employment screening company FCRA violations); Consent

Fourth, a robust supervision program is required to maintain an even playing field by ensuring that all marketplace participants play by the same rules. The proposal contemplated in the ANPR would distort the market by subjecting only a small number of consumer reporting entities to supervision while allowing bad actors in the rest of the industry to gain a competitive advantage by underinvesting in consumer compliance programs and engaging in unlawful practices. This would distort the market by incentivizing unlawful behavior that causes consumer harm.

B. Costs to Industry from the Current Threshold are not Unduly Burdensome

The CFPB's asserted concern that the current \$7 million larger participant threshold is unduly burdensome to smaller consumer reporting entities that are larger participants is baseless.

First, industry legal compliance obligations, and the associated costs to consumer reporting entities, arise from the substantive consumer protection statutes passed by Congress and the regulations promulgated to implement those statutes; not whether the entity is supervised by the CFPB. A participant in the consumer reporting space is obligated to comply with its obligations under the Fair Credit Reporting Act, the Dodd-Frank Act, and other laws, regardless of its larger participant status. As a result, compliance costs unrelated to responding to specific examination activities are not affected by a covered person's status as a larger participant.

Second, examination costs are not unduly burdensome for supervised participants in the consumer reporting market under the current larger participant threshold. The CFPB has estimated the cost of compliance with an average supervisory examination at approximately \$27,000.¹⁷ And the CFPB states in the ANPR that larger participants in the credit reporting market on the lower end of the current threshold are not frequently examined.¹⁸ The possibility of incurring an examination compliance cost of approximately \$27,000 over the course of several years is not unduly burdensome for credit reporting companies with more than \$7 million in annual relevant revenue. This is particularly true when balanced against the significant levels of consumer injury and legal noncompliance in the market.

Third, consumer reporting companies do not incur significant costs associated with "monitoring larger participant status."¹⁹ The \$7 million threshold test sets a clear standard, and entities have records sufficient to show whether they have collected the requisite relevant annual revenue.

C. The Other Justifications in the ANPR are Without Merit

The other potential justifications for raising the larger participant threshold set out in the ANPR are without merit. *First*, the asserted concern that a higher number of supervised entities unduly diverts CFPB resources to determine which entities to examine is baseless. The CFPB estimates in its ANPR that the number of credit bureaus that qualify as larger participants under the current threshold "is likely less than 33."²⁰ It is not credible that determining which among these fewer

Order, In the Matter of General Information Services, No. 2015-CFPB-0028, Oct. 29, 2015, *available at* https://files.consumerfinance.gov/f/201510_cfpb_consent-order_general-information-service-inc.pdf (same).

¹⁷ See *Legal Standard Applicable to Supervisory Designation Proceedings, Proposed Rule*, 90 Fed. Reg. 41520 (proposed Aug. 26, 2025) (to be codified at 12 C.F.R. 1091).

¹⁸ ANPR *supra* n.1, at 38411.

¹⁹ *Id.* at 38412.

²⁰ *Id.* at 38412 n.15.

than 33 entities should be examined in a given year is burdensome to the CFPB. In any event, making risk-based examination scheduling decisions, and understanding which entities are under the CFPB's supervisory jurisdiction, is a basic part of the CFPB's statutory mandate. *Second*, changes to the SBA's company size standards have no bearing on the appropriate larger participant threshold under the CFPB's risk-based supervision statutory mandate. The considerations driving a company's categorization as a small business are inapposite to those relevant to whether the company's activities present risk to consumers.

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For the foregoing reasons, the CFPB should not modify the larger participant threshold for consumer reporting entities as contemplated in the ANPR.

Respectfully submitted,



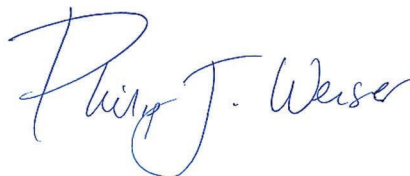
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