

Congress of the United States
House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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<https://coronavirus.house.gov>

May 25, 2022

Mr. Brian Cassin
Chief Executive Officer
Experian
475 Anton Boulevard
Costa Mesa, CA 92626

Dear Mr. Cassin:

The Select Subcommittee on the Coronavirus Crisis is committed to examining the economic impact of the pandemic on individuals, communities, and small businesses. Recent reports indicate that this impact included a significant decrease in Experian's responsiveness to consumer complaints and disputes regarding errors in consumer credit reports. The Select Subcommittee seeks documents and information to investigate these reports and gain insight to help ensure that consumers are protected as our nation continues to recover from the crisis.

The pandemic and the ensuing economic downturn gave rise to new opportunities for the introduction of errors into consumers' credit reports. For example, despite an unprecedented pause on student loan payments and interest,¹ as well as a CARES Act provision requiring certain loans with paused payments to be reported as current,² there are reports that lenders may have erroneously reported some student loans and other loans with paused payments as late.³ The pandemic also saw a spike in identity theft, which can result in the introduction of erroneous information onto consumers' credit reports; identity theft complaints to the Federal Trade Commission rose by 113% from 2019 to 2020.⁴ Unsurprisingly given these increased risks, the Consumer Financial Protection Bureau (CFPB) has received a record-breaking number of credit or consumer reporting complaints during the pandemic, including approximately 710,300 in

¹ Department of Education, Federal Student Aid, *COVID-19 Loan Payment Pause and 0% Interest* (online at <https://studentaid.gov/announcements-events/covid-19/payment-pause-zero-interest>) (accessed May 2, 2022).

² Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 § 4021.

³ *Why the Pandemic May Be Hurting Your Credit Score*, Consumer Reports (Feb. 3, 2021) (online at www.consumerreports.org/credit-scores-reports/why-the-pandemic-may-be-hurting-your-credit-score-a1094077633/); *How To Fix COVID-19 Related Credit Report Errors*, Forbes (Apr. 5, 2021) (online at www.forbes.com/advisor/credit-score/how-to-fix-credit-report-errors/).

⁴ Insurance Information Institute, *Facts + Statistics: Identity Theft and Cybercrime* (online at <https://iii.org/fact-statistic/facts-statistics-identity-theft-and-cybercrime>) (accessed Mar. 28, 2022).

2021 alone, a more than fivefold increase above the 2019 level.⁵ Recognizing these challenges, Experian and the other two large nationwide consumer reporting agencies (NCRAs), Equifax and TransUnion, accommodated consumers by making credit reports available weekly rather than annually.⁶

Despite the NCRAs' demonstrated recognition of the increased risk of errors during the pandemic that predictably led to an increased volume of consumer complaints, Experian and its peer companies made significant changes to their complaint response processes early in the crisis that predictably resulted in a significant decrease in responsiveness.⁷ In the spring of 2020, the NCRAs began using automated reviews to identify complaints suspected of having been submitted by a third party and using this as a reason to dismiss complaints with a basic template response letter, rather than following up with the consumer. In many of these cases, the consumer had previously disputed information with the NCRAs directly, triggering a statutory requirement under the Fair Credit Reporting Act for the NCRAs to review the CFPB complaint; by around April 2020, the NCRAs were providing these insubstantial "third-party" responses to around half of such complaints.⁸ In many other instances during the pandemic, Equifax and TransUnion, upon being notified of complaints submitted to the CFPB, diverted them to their "dispute channel"—grouping them with the much larger number of cases where consumers raised issues with the NCRAs directly without involving CFPB—and then never informed CFPB

⁵ Consumer Financial Protection Bureau, *Annual Report of Credit and Consumer Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, and TransUnion* (Jan. 2022) (online at https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2022-01.pdf); Consumer Financial Protection Bureau, *Consumer Response Annual Report: January 1 – December 31, 2021* (Mar. 31, 2022) (online at https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf); United States Public Interest Research Group Education Fund, *Consumers in Peril: CFPB Data Shows Consumer Problems in Year of COVID-19* (Mar. 1, 2021) (online at <https://uspirgedfund.org/reports/usf/consumers-peril>).

⁶ Federal Trade Commission, *Free Weekly Credit Reports During COVID Extended Until April 2022* (online at <https://consumer.ftc.gov/consumer-alerts/2021/03/free-weekly-credit-reports-during-covid-extended-until-april-2022>) (accessed Mar. 28, 2022).

⁷ Consumer Financial Protection Bureau, *Annual Report of Credit and Consumer Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, and TransUnion* (Jan. 2022) (online at https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2022-01.pdf); Consumer Financial Protection Bureau, *Consumer Response Annual Report: January 1 – December 31, 2021* (Mar. 31, 2022) (online at https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf).

⁸ Third parties would typically be companies attempting to mediate the relationship between consumers and their credit reports and credit scores, such as banks and identity theft protection services. They could also include credit repair companies, which claim—often fraudulently—to help consumers identify and dispute errors on their credit reports. According to CFPB, Federal Trade Commission guidance and some case law permit the NCRAs not to investigate disputes that have been submitted by third parties. The NCRAs also use this as an excuse not to respond to CFPB complaints that may have been submitted by third parties. However, CFPB notes that the guidance and case law for disputes do not apply to complaints submitted through CFPB, meaning that the NCRAs should still review and respond to complaints legitimately submitted by a third party on behalf of a consumer. Consumer Financial Protection Bureau, *Annual Report of Credit and Consumer Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, and TransUnion* (Jan. 2022) (online at https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2022-01.pdf).

of the ultimate outcomes. Overall, only 4.1% of complaints received relief (e.g., correction of the reported error) in 2021, down from nearly 25% of complaints in 2019.⁹

These harmful changes made by Experian and the other NCRAs during the pandemic compounded longstanding issues with the complaint resolution process. For example, in some cases, credit bureaus have adopted the response of a data furnisher without performing any independent review, often failing to consider documentation submitted by the consumer—a practice known as “parroting.”¹⁰ Given all of these problematic practices and the resulting harm to consumers, the Select Subcommittee requests the following documents by June 8, 2022.

1. All policies and procedures (e.g., manuals, flow charts, employee guidance, etc.) effective between January 1, 2020 and the present related to Experian’s responses to complaints (defined as those complaints received via CFPB) and disputes (defined as complaints submitted to Experian directly by the consumer). Please indicate in your response which policies and procedures are currently in effect.

Please also provide written responses to the following information requests:

1. Please describe your company’s processes for responding to complaints and for responding to disputes. Please note any differences between the process for responding to complaints vs. responding to disputes, including but not limited to whether disputes and complaints are treated differently in your data systems.
 - a. Please specify your company’s process for responding to disputes or complaints that require a referral to a data furnisher for investigation.
 - b. In each of 2019, 2020, and 2021, in what percentage of cases in which a dispute or complaint was referred to a data furnisher for investigation did your company also conduct its own independent review?
2. How many disputes did consumers file directly with your company in 2019, 2020, and 2021, respectively?
 - a. What percentage of these disputes resulted in relief for the consumer? Please break down your response by types of relief provided (e.g., correction of error, monetary relief, etc.).

⁹ Consumer Financial Protection Bureau, *Annual Report of Credit and Consumer Reporting Complaints: An Analysis of Complaint Responses by Equifax, Experian, and TransUnion* (Jan. 2022) (online at https://files.consumerfinance.gov/f/documents/cfpb_fcra-611-e_report_2022-01.pdf); Consumer Financial Protection Bureau, *Consumer Response Annual Report: January 1 – December 31, 2021* (Mar. 31, 2022) (online at https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf).

¹⁰ Committee on Financial Services, Testimony of Chi Chi Wu, National Consumer Law Center, *Hearing on a Biased, Broken System: Examining Proposals to Overhaul Credit Reporting to Achieve Equity* (June 29, 2021) (online at <https://democrats-financialservices.house.gov/UploadedFiles/HHRG-117-BA00-Wstate-WuC-20210629.pdf>).

- b. What percentage of these disputes did your company decline to address on the basis of suspected third-party involvement? In how many of these cases did your company follow up with the consumer to verify third-party involvement before closing the dispute?
 - c. What percentage of these disputes did you refer to a data furnisher for further investigation?
 3. For disputes filed directly with your company, what are the median and mean number of calendar days from consumer submission to dispute closure for 2019, 2020, and 2021, respectively? Please do not include CFPB complaints in this response.
 4. How many total staff hours (including permanent staff and other staff, such as contractors) did your company spend responding to consumer disputes and CFPB complaints in 2019, 2020, and 2021, respectively? Please separate data for disputes and complaints.
 - a. What are the median and mean number of staff hours (including permanent staff and other staff, such as contractors) spent on individual disputes and complaints prior to closing them? Please separate data for disputes and complaints.

These requests are consistent with the House of Representatives' authorization of the Select Subcommittee on the Coronavirus Crisis "to conduct a full and complete investigation" of "issues related to the coronavirus crisis," including "reports of waste, fraud, abuse, price gouging, profiteering, or other abusive practices related to the coronavirus crisis;" "the economic impact of the coronavirus crisis on individuals, communities, [and] small businesses;" and "any other issues related to the coronavirus crisis."¹¹

Please respond to this letter by no later than June 1, 2022, to confirm your company's cooperation. An attachment to this letter provides additional instructions for responding to the Select Subcommittee's request. If you have any questions regarding this request, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,


James E. Clyburn
Chairman

Enclosure

cc: The Honorable Steve Scalise, Ranking Member

¹¹ H. Res. 935, 116th Cong. (2020); H. Res. 8, sec. 4(f).

Responding to Oversight Committee Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.
5. Documents produced in electronic format should be organized, identified, and indexed electronically.
6. Electronic document productions should be prepared according to the following standards:
 - a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - b. Document numbers in the load file should match document Bates numbers and TIF file names.
 - c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
11. The pendency of or potential for litigation shall not be a basis to withhold any information.
12. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.
16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.
17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
19. All documents shall be Bates-stamped sequentially and produced sequentially.
20. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.
21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic

message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.