

July 11, 2017

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Blaine Luetkemeyer
Chairman
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairmen Hensarling and Luetkemeyer:

The undersigned organizations support the FCRA Liability Harmonization Act. The bill would align the Fair Credit Reporting Act (FCRA) with other financial consumer protection laws by capping the amount of statutory damages allowed in class action lawsuits and eliminating the availability of punitive damages.

In contrast to other consumer financial protection statutes, the FCRA does not impose a cap on recovery in class action lawsuits. Therefore, under current law, plaintiffs in a FCRA class action lawsuit may pursue unlimited damages including punitive damages and attorneys' fees. The Electronic Fund Transfer Act (EFTA), Fair Debt Collection Practices Act (FDCPA), Equal Credit Opportunity Act (ECOA), and Truth in Lending Act (TILA) establish parameters of economic liability in class action litigation.

This imbalanced structure invites class action lawsuits alleging technical violations of the FCRA with large putative classes to generate payouts for attorneys. For many businesses, the risk of uncapped liability effectively forces them into settling even the most speculative claims. These lawsuits leave businesses with fewer resources to invest in jobs and growth, ultimately leading to higher costs for consumers.

The FCRA Liability Harmonization Act promotes fairness in FCRA class action litigation and establishes reasonable limits on liability while maintaining the protections afforded to consumers under the FCRA. The FCRA would continue to ensure that individual consumers who are harmed are appropriately compensated for their injuries. With the passage of this bill, consumers may continue to bring individual or class action lawsuits and recover attorneys' fees and the costs of litigation.

Passing the FCRA Liability Harmonization Act is an important action Congress can take to rein in abusive litigation practices while sustaining consumer protections.

Sincerely,

American Bankers Association
American Financial Services Association
Consumer Bankers Association
Consumer Data Industry Association
Electronic Funds Transfer Association
Electronic Transactions Association
Financial Services Roundtable
International Franchise Association
National Association of Professional Background Screeners
National Automobile Dealers Association
Retail Industry Leaders Association
Society for Human Resource Management
The Software & Information Industry Association
U.S. Chamber Institute for Legal Reform
U.S. Chamber of Commerce