

Annual report of credit and consumer reporting complaints

An analysis of complaint responses by
Equifax, Experian, and TransUnion

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Executive Summary

- Pursuant to Section 611(e)(5) of the Fair Credit Reporting Act (FCRA), this report summarizes information gathered by the Consumer Financial Protection Bureau (CFPB) regarding certain consumer complaints transmitted by the CFPB to the three largest nationwide consumer reporting agencies (NCRAs)—Equifax, Experian, and TransUnion.
- The CFPB historically has satisfied its annual reporting obligation by including information gathered pursuant to FCRA Section 611(e) in its Consumer Response Annual Report. This year, however, increased complaint volume about the NCRAs and the NCRAs' concurrent changes in response to those complaints led the CFPB to publish this independent report.
- From January 2020 to September 2021, the CFPB received more than 800,000 credit or consumer reporting complaints. Of these complaints, more than 700,000 were submitted about Equifax, Experian, or TransUnion. Complaints submitted about the NCRAs accounted for more than 50% of all complaints received by the CFPB in 2020 and more than 60% in 2021. The CFPB's analysis shows that consumers are submitting more complaints in each complaint session and are increasingly returning to the CFPB's complaint process.
- In their complaints to the CFPB, consumers describe harms stemming from their failed attempts to correct incomplete and inaccurate information on their credit reports:
 - **Consumers are caught in an automated system where they are unable to have their problem addressed.** Consumers described how they attempted to dispute inaccurate information with the NCRAs but were unsuccessful. Attempts to have their problems addressed timely appear especially important to consumers who are making large financial transactions, such as buying a house, or applying for housing or employment.
 - **Consumers waste time, energy, and money to try to correct their reports.** Consumers described the burden associated with attempting to correct inaccurate information, which can be compounded when they are managing other personal issues. Some consumers reported discovering that debts (such as medical bills) had been reported to their credit report without their knowledge. Consumers described

being exasperated by the dispute process and some consumers described paying bills they did not think they owed because of concerns about the effect of the debt on their credit report and credit score.

- **Consumers are caught between furnishers and the NCRAs.** Consumers described attempting to dispute incorrect information with both data furnishers and the NCRAs. Consumers said that when furnishers and the NCRAs point fingers at one another, they have limited avenues to resolve the problem, which can be especially difficult for identity theft victims.
- Consumers have the right to dispute inaccurate and incomplete information on their credit reports. Consumers also have the right to submit complaints to the CFPB. Most complaints about the NCRAs received by the CFPB during 2020 and 2021 met the statutory criteria that mandates the NCRAs review these complaints and respond to the CFPB.
- In 2020, Equifax, Experian, and TransUnion changed how they respond to complaints transmitted to them by the CFPB. The CFPB's analysis reveals that the NCRAs are closing these complaints faster and with fewer instances of relief. In 2021, the NCRAs reported relief in less than 2% of complaints down from nearly 25% complaints in 2019.
 - Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB's complaint process allows for the submission of complaints by consumers' third-party representatives. The CFPB expects the NCRAs to respond to complaints, including complaints where they have an obligation to do so under FCRA Section 611(e), when submitted by consumers and representatives acting on their behalf.
 - The NCRAs ignore this obligation and, instead, do not respond when they suspect that a third party was involved in the submission of the complaint. The NCRAs rely on speculative criteria in reaching these decisions.
 - The NCRAs' actions leave many consumers without a response to the issues they raised in their complaints.
- The FCRA requires the NCRAs to conduct a review of certain complaints sent to them by the CFPB and to report their determinations and actions to the CFPB. The NCRAs' responses to these complaints raise serious questions about whether they are unable—or unwilling—to comply with the law.

1. Introduction

Credit reports¹ play an important role in the lives of consumers. Lenders often rely on these reports when determining whether to approve loans and what terms to offer. Landlords may review reports to decide whether to rent housing to prospective tenants. Employers may check reports as part of the job application process. Given the consequential decisions for which credit reports are considered, it is imperative that the credit reporting system maintain and distribute data that are accurate. Access to an effective and efficient dispute management and resolution process is legally required and essential to maintain the accuracy of consumers' data.

Complaints submitted to the Consumer Financial Protection Bureau (CFPB) about inaccurate information and the dispute process make up a significant share of all complaints received by the CFPB, and the complaint process provides a key backstop to dispute channels available to consumers.²

There are several actors who make up the credit reporting system: *furnishers* provide information about *consumers* to *consumer reporting agencies* that, in turn, compile information and make it available to *lenders and other users*. Pivotal to this system are the three largest nationwide consumer reporting agencies (NCRAs): Equifax, Experian, and TransUnion. More than 200 million Americans have credit files and nearly 15,000 providers furnish

¹ *Credit reports*, a popular term for *consumer reports* that typically contain information about credit accounts and other trade lines as well as information from public records, are provided by the nationwide consumer reporting agencies and other consumer reporting agencies to lenders and other users. See, e.g., Consumer Fin. Prot. Bureau, *Key Dimensions and Processes in the U.S. Credit Reporting System* (2012), https://files.consumerfinance.gov/f/201212_cfpb_credit-reporting-white-paper.pdf. See also 15 U.S.C. § 1681a(d).

² See Fed. Trade Comm'n., Report on Complaint Referral Program Pursuant to Section 611(e) of the Fair Credit Reporting Act (Dec. 2008), <https://www.ftc.gov/sites/default/files/documents/reports/section-611e-fair-credit-reporting-act-federal-trade-commission-program-referring-consumer/p044807fcrcmpt.pdf> ("The [611(e)] program was intended to enable consumers to obtain a second review of their complaints when they remain dissatisfied after having completed the dispute process with the CRAs ...").

information about consumers to the NCRAs.³ Thus, the NCRAs' actions—and inactions—have large implications for consumers' financial well-being and the economy more broadly.⁴

The Fair Credit Reporting Act (FCRA) imposes various requirements on certain entities that regularly compile and disseminate personal information about individual consumers.⁵ The CFPB and the Federal Trade Commission (FTC) are the federal agencies with the principal responsibility for enforcing the FCRA.⁶ In addition to its enforcement authority, the CFPB has rule writing authority under the FCRA, as well as supervisory authority over many of the key institutions in the consumer reporting system. The CFPB is also tasked with compiling and transmitting to the NCRAs certain complaints from consumers about them.⁷ The CFPB carries out this responsibility through its consumer complaint process.⁸

³ See, e.g., Equifax, *Equifax Investor Day* (2021) at 70, https://d1i03yog0oux5.cloudfront.net/_43f211346c1e89c67b4b544fb8ae253f/equifax/db/1987/19204/pdf/EFX+2021+Investor+Day+Presentation+.pdf (more than 220 million consumers); Experian, *Frequently Asked Questions on Credit Reports*, <https://www.experian.com/ourcommitment/credit-report-faqs> (more than 220 million consumers) (last visited Dec. 4, 2021); TransUnion, *Customer Credit Reporting*, <https://www.transunion.com/solution/customer-credit-check> (more than 200 million files) (last visited Dec. 4, 2021); Consumer Fin. Prot. Bureau and Fed. Trade Comm'n., *Accuracy in Consumer Reporting Part I*, <https://www.ftc.gov/system/files/documents/videos/accuracy-consumer-reporting-workshop-session-1/ftc-accuracy-in-consumer-reporting-workshop-transcript-segment-1-12-10-19.pdf> ("right now, we have a very diffused furnisher population, about 14,000 to 15,000 furnishers"). See also Kenneth Brevoort, Phillip Grimm & Michelle Kambara, Consumer Fin. Prot. Bureau, *Data Point: Credit Invisibles* (May 2015), https://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf (CFPB research estimating that 188.6 million Americans have credit records at one of the NCRAs that could be scored and an additional 19.4 million Americans have credit records that cannot be scored.).

⁴ See, e.g., House Financial Services Comm., Oversight and Investigations Subcomm., *Consumer Credit Reporting: Assess Accuracy and Compliance*, 117th Cong. (May 26, 2021) ("House Hearing on Consumer Credit Reporting") (opening statement of Rep. Green, "Whether in assessing credit, employment, housing, insurance or even utilities, the information provided by the major NCRAs has the power to either open or foreclose a vast array of opportunities that undergird economic security and social justice for consumers"; opening statement of Rep. Barr, "The allocation of credit is the lifeblood of the American economy, lenders, insurers and other financial firms rely on accurate credit reports to reflect the potential risk of a customer.").

⁵ 15 U.S.C. § 1681 *et seq.*

⁶ See Senate Comm. on Banking, Housing, and Urban Affairs, *An Overview of the Credit Bureaus and the Fair Credit Reporting Act*, 115th Cong. (July 12, 2018) (S. HRG. 115-361), <https://www.govinfo.gov/content/pkg/CHRG-115shrg32483/pdf/CHRG-115shrg32483.pdf> ("An Overview of the Credit Bureaus").

⁷ 15 U.S.C. § 1681i(e)(1).

⁸ See discussion *infra* Section 2.3. See also Consumer Fin. Prot. Bureau, *Learn how the complaint process works*, <https://www.consumerfinance.gov/complaint/process/>.

Reporting requirement and scope

Under the FCRA, the CFPB must submit an annual report to Congress regarding information gathered by the CFPB about certain complaints⁹ it transmits to the NCRAs.¹⁰ In prior years, the CFPB met this reporting requirement by including additional company-level, summary information in the Consumer Response Annual Report.¹¹ In 2020, however, significant changes in complaint volume and the quality of responses provided by the three largest NCRAs led the CFPB to publish this stand-alone report.¹²

In addition to meeting the FCRA reporting requirement, this report uses consumer complaint information to provide the public with important context about the consumer reporting marketplace and to provide policymakers with timely information, context, and analysis as they deliberate various legislative proposals that would affect the credit reporting system.¹³

This report proceeds in the following sections. Section 2 begins by providing an overview of the credit reporting system, including the dispute process, the CFPB complaint process, and the participation of other actors. Section 3 discusses consumer complaints to the CFPB and the issues consumers experience when reviewing and attempting to correct their credit reports. Section 4 traces the evolution of the FCRA 611(e) process since it became law in 2003. Section 5 provides information required by FCRA Section 611(e)(5), including observed complaint response patterns and other information captured by the CFPB's consumer complaint process. Finally, Section 6 concludes this report.

Data sources

The data used in this report comes from two primary sources. The first is CFPB complaint data collected during the consumer complaint process. The consumer complaint process, which is described more fully in Section 2.3, collects information from both consumers and companies.

⁹ See discussion of covered complaints *infra* Section 4.1.

¹⁰ 15 U.S.C. § 1681i(e)(5).

¹¹ See, e.g., Consumer Fin. Prot. Bureau, Consumer Response Annual Report (Mar. 2020), https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2019.pdf.

¹² See Consumer Fin. Prot. Bureau, Consumer Response Annual Report (Mar. 2021) at 25, https://files.consumerfinance.gov/f/documents/cfpb_2020-consumer-response-annual-report_03-2021.pdf (“Due in part to the increase in complaint volume, the Bureau will issue a separate report later this year to provide a more robust analysis of these complaints and responses.”).

¹³ See, e.g., Protecting Consumer Access to Credit Act, H.R. 1645, 117th Congress (2021); Comprehensive Credit Reporting Enhancement, Disclosure, Innovation, and Transparency Act of 2021, H.R. 4120, 117th Congress (2021); Medical Debt Relief Act of 2021, S.214, 117th Congress (2021); Consumer Credit Control Act of 2021, S.1343, 117th Congress (2021).

The CFPB makes a subset of this data publicly available in the Consumer Complaint Database.¹⁴ This report primarily focuses on complaint data from January 2020 to September 2021; however, data going back to 2018 is included to provide additional context.¹⁵ From January 2020 to September 2021, the CFPB received more than 800,000 credit or consumer reporting complaints. Of these complaints, more than 700,000 were submitted about Equifax, Experian, or TransUnion.

The second data source is information gathered from several dozen informal interviews with consumers who submitted complaints to the CFPB. The CFPB conducted these interviews to gain a more complete understanding of consumers' experiences with the CFPB's consumer complaint process.¹⁶ Additionally, the CFPB spoke with non-profit credit counselors and the Consumer Data Industry Association (CDIA), an international trade association representing consumer data companies. These conversations have informed this report.

Terminology

The FCRA sets forth definitions and rules of construction of many key terms.¹⁷ The CFPB is providing this glossary to aid comprehension of this report only.¹⁸ For the purposes of this report, the CFPB uses the following terms:

- *Consumer complaint*: submissions to the CFPB that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service. Section 2.3 discusses the complaint process in more detail.
- *Consumer reporting agency (CRA)*: a company that assembles or evaluates information on consumers and sells information in the form of consumer reports.

¹⁴ See Consumer Fin. Prot. Bureau, Consumer Complaint Database, <https://www.consumerfinance.gov/data-research/consumer-complaints/>. See also Disclosure of Consumer Complaint Narrative Data, 80 FR 15572 (Mar. 24, 2015), <https://www.federalregister.gov/documents/2015/03/24/2015-06722/disclosure-of-consumer-complaint-narrative-data>.

¹⁵ This report fulfills the CFPB's reporting requirement for complaints received from January to December 2020. Complaints received before and after this reporting period are included for context.

¹⁶ These interviews are a valuable way to better understand the lived experiences of consumers who used the CFPB complaint process; however, they are not intended to give the CFPB statistically significant data that can be generalized to all consumers.

¹⁷ See 15 U.S.C. § 1681a.

¹⁸ The terms defined in this glossary are intended to enhance the readability for the audience, rather than to reflect a legal interpretation by the CFPB.

- *Nationwide consumer reporting agency (NCRA)*: a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis regarding a consumer's credit worthiness, credit standing, or credit capacity. In this report, the CFPB uses the term *NCRA*s to refer to Equifax, Experian, or TransUnion.
- *Covered complaints*: complaints submitted to the CFPB about the *NCRA*s concerning incomplete or inaccurate information where the consumer also appears to have disputed the completeness or accuracy with the *NCRA*. The FCRA requires the *NCRA*s to subject these complaints to additional review when the CFPB transmits the complaints to the *NCRA*s.¹⁹ Section 5 analyzes these complaints.
- *Credit report*: a consumer report provided by a *NCRA* to a user (such as a lender or debt collector) that typically contains information such as the payment history and status of credit and other accounts.
- *Credit file or consumer file*: the information about a consumer that is contained in a *CRA*'s database. The term *file*, when used in connection with information on any consumer, means all the information on that consumer recorded and retained by a *CRA* regardless of how that information is stored.
- *Dispute*: the FCRA requires *CRA*s and furnishers to reinvestigate information contained in a consumer's credit file when the consumer disputes the accuracy or completeness of that information. Consumers can dispute an item of information through a *CRA* (*indirect disputes*), through the furnisher who provided the disputed information (*direct disputes*), or both. Section 2.2 summarizes the dispute process.
- *Furnisher*: an entity that furnishes information relating to consumers to one or more *CRA*s for inclusion in a consumer report.
- *Trade line*: information furnished by a creditor to a *CRA* that reflects the consumer's account status and activity, such as balance owed and payment history.

¹⁹ This additional review is detailed at FCRA Section 611(e)(3), 15 U.S.C. § 1681i(e)(3).

2. Background

This section provides background on the credit reporting system, focusing on the parts of the system that interact with the CFPB’s complaint process. It discusses, in turn, the dispute process (Section 2.2), the complaint process and its relationship to the dispute process (Section 2.3), and actors that may play a role in consumers’ efforts to monitor their credit reports and attempt to improve their credit standing (Section 2.4). Specifically, Section 2.4 addresses credit repair organizations and emerging forms of credit education.

2.1 Credit reporting overview

The basic structure and operation of the credit reporting system is largely unchanged over the last several decades.²⁰ CRAs assemble or evaluate consumer information from lenders and other data furnishers and from public record providers to produce consumer reports and credit scores that users rely on to make decisions.

The data standards that govern these data exchanges have evolved. The Metro 2 Format²¹, a system of shorthand codes and fields to report trade lines, has now fully supplanted the Metro 1 Format.²² But credit reports are still made up of some or all of the following components:

²⁰ See Consumer Fin. Prot. Bureau, *supra* note 1.

²¹ The credit industry’s trade association, the Consumer Data Industry Association, created the Metro 2 Format. It is a standardized electronic data reporting format used by data furnishers to furnish consumer credit account data. See generally Consumer Data Industry Ass’n., *Metro 2® Format for Credit Reporting*, <https://www.cdiaonline.org/resources/furnishers-of-data-overview/metro2-information/>. See also Chi Chi Wu and Richard Rubin, National Consumer Law Center, *The Latest on Metro 2: A Key Determinant As to What Goes Into Consumer Reports* (Oct. 2018), <https://library.nclc.org/latest-metro-2-key-determinant-what-goes-consumer-reports> (“Metro 2 is considered the standard format for the credit reporting industry and is essentially ubiquitous. It has been designed so that information vital to the preparation of accurate consumer reports is identified and defined in a manner to facilitate the routine provision of accurate and complete information.”).

²² Following a settlement with the New York Attorney General, the NCRAs stopped accepting data in the older Metro 1 format in 2015. See Settlement Agreement, In the Matter of the Investigation by the Attorney General of the State of

- *Personal information*: identifying information of the consumer with whom the credit file is associated, such as the individual's name, other names previously used, and current and former addresses.
- *Trade line information*: accounts in the consumer's name reported by creditors. Creditors generally furnish the type of credit, credit limit or loan amount, account balance, account payment history including the timeliness of payments (i.e., the payment grid), whether the account status is current, delinquent or in collection, and the dates the account was opened or closed.
- *Public record information*: public record data of a financial nature, such as consumer bankruptcies.
- *Collections*: third-party collection items, reported by debt buyers or debt collection agencies.
- *Inquiry*: request by a company to view a credit file.²³

The FCRA is concerned with ensuring that the various parties in the credit reporting system take steps to ensure the data that flows through the system is accurate and is used only for permissible purposes.²⁴ When preparing consumer reports, for example, CRAs must employ reasonable procedures to “assure maximum possible accuracy” of the information concerning the individual about whom the report relates.²⁵ The FCRA and Regulation V also set forth requirements for furnishers concerning the accuracy and integrity of data furnished.²⁶

New York, of Experian Info. Sol., Inc., Equifax Info. Serv. L.L.C., and TransUnion L.L.C. (Mar. 8, 2015), <https://ag.ny.gov/pdfs/CRA%20Agreement%20Fully%20Executed%203.8.15.pdf>. The requirement to retire the Metro 1 Format was also included shortly thereafter in an Assurance of Voluntary Compliance entered into by the NCRAs with Attorneys General from 31 states. *See* Assurance of Voluntary Compliance, In the Matter of Equifax Info. Serv. L.L.C., Experian Info. Sol., Inc., and TransUnion L.L.C. (May 20, 2015), <https://www.ohioattorneygeneral.gov/Files/Briefing-Room/News-Releases/Consumer-Protection/2015-05-20-CRAs-AVC.aspx>.

²³ *See generally* Consumer Fin. Prot. Bureau, *What is a credit report?*, <https://www.consumerfinance.gov/ask-cfpb/what-is-a-credit-report-en-309/> (last updated Sep. 1, 2020). *See also* Consumer Fin. Prot. Bureau, *What's a credit inquiry?*, <https://www.consumerfinance.gov/ask-cfpb/whats-a-credit-inquiry-en-1317/> (last updated Sep. 4, 2020).

²⁴ 15 U.S.C. §§ 1681 and 1681b.

²⁵ 15 U.S.C. § 1681e(b). *See also* Consumer Fin. Prot. Bureau, *CFPB Supervision and Examination Manual*, https://files.consumerfinance.gov/f/documents/cfpb_consumer-reporting-larger-participants_procedures_2020-02.pdf.

²⁶ 15 U.S.C. § 1681s-2. *See also* Consumer Fin. Prot. Bureau, *Supervisory Highlights Consumer Reporting Special Edition* (Mar. 2017), https://files.consumerfinance.gov/f/documents/201703_cfpb_Supervisory-Highlights-

Furnishers and CRAs have additional dispute handling responsibilities. When consumers believe there is inaccurate information in their credit report, the FCRA enables consumers to dispute the information. Consumers may dispute information with the data furnisher (e.g., a lender or servicer), one or more CRAs, or both the furnisher and CRAs (Section 2.2). Consumers may also submit complaints to the CFPB (Section 2.3).

2.2 Dispute process

The structure of the FCRA creates interrelated legal standards and requirements to support the goal of accurate credit reporting.²⁷ The FCRA provides consumers with dispute rights and imposes obligations on both the NCRAs and furnishers to ensure that potential errors are investigated and corrected promptly.²⁸

CRAs must satisfy legal requirements when information is disputed. Under Section 611 of the FCRA, if a consumer disputes with the CRA the completeness or accuracy of an item of information, the CRA has an obligation to conduct a reasonable reinvestigation.²⁹ There are specific timelines, notification requirements, and actions a CRA must follow when conducting a reasonable reinvestigation.³⁰ A CRA is not required to investigate a dispute if the CRA has reasonably determined that the dispute is frivolous or irrelevant, but must notify the consumer of its determination.³¹

When a consumer disputes a trade line to the NCRAs, the dispute is often routed through the Online Solution for Complete and Accurate Reporting (e-OSCAR), a system used by the NCRAs to create and respond to consumer credit history disputes with furnishers.³² The NCRAs

[Consumer-Reporting-Special-Edition.pdf](#); CFPB v. Fair Collections & Outsourcing, Inc., No. 8:19-cv-02817-GJH (D. Md. Sept. 16, 2021), https://files.consumerfinance.gov/f/documents/cfpb_fco_proposed_stipulated-jdmt-and-order_2021-08.pdf (CFPB enforcement action against a furnisher of information to consumer reporting agencies for failing to maintain reasonable policies and procedures regarding the accuracy and integrity of the information it furnishes, including the handling of consumer disputes, failing to conduct reasonable investigations of certain consumer disputes, and failing to cease furnishing information that was alleged to have been the result of identity theft before it made any determination whether the information was accurate.).

²⁷ See generally, An Overview of the Credit Bureaus, *supra* note 6.

²⁸ 15 U.S.C. § 1681i(a)(1)(A) and 12 C.F.R. § 1022.43(a).

²⁹ 15 U.S.C. § 1681i(a)(1)(A).

³⁰ See, e.g., Consumer Fin. Prot. Bureau, *Supervisory Highlights Consumer Reporting Special Edition* (Dec. 2019) at Section 3.4, https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-20_122019.pdf.

³¹ 15 U.S.C. § 1681i(a)(3)(A)-(C).

³² See e-OSCAR, *About e-OSCAR*, <https://www.e-oscar.org/getting-started/about-us>.

transmit an Automated Credit Dispute Verification (ACDV) that includes a dispute code, narrative text, and since 2013, supporting documents provided by consumers.³³

Furnishers have independent obligations under the FCRA. Furnishers have specific timelines, notification requirements, and actions they must follow when conducting an investigation.³⁴ Similar to CRAs, a furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant, but must notify the consumer of its determination.³⁵

Consumers also play a vital role in promoting accurate reports. By disputing inaccurate information—described by some consumers as a time-consuming and difficult process (Section 3.2)—consumers provide information that can be used by CRAs to evaluate whether furnishers and other data sources provide reliable, verifiable information.³⁶ CRAs can also use consumer disputes to assess their matching algorithms and other practices that may be introducing inaccuracies. The CFPB has previously emphasized the importance of CRAs using disputes to assess furnisher data quality. For example, as discussed in a recent edition of Supervisory Highlights, the CFPB directed CRAs to revise their accuracy procedures to identify and take corrective action regarding data from furnishers whose dispute response behavior indicates the furnisher is not a source of reliable, verifiable information about consumers.³⁷ Consumers may also dispute information that results from identity theft. The FCRA places additional requirements on both CRAs and furnishers for consumer claims that disputed information is the result of identity theft.³⁸

³³ See, e.g., Chi Chi Wu, Michael Best, & Sarah Bolling Mancini, National Consumer Law Center, Automated Injustice Redux at 9 (Feb. 2019), https://www.nclc.org/images/pdf/credit_reports/automated-injustice-redux.pdf.

³⁴ See, e.g., Consumer Fin. Prot. Bureau, *supra* note 26 at Section 3. See also Consumer Fin. Prot. Bureau, CFPB Bulletin 2013-09 (Sept. 9, 2013), https://files.consumerfinance.gov/f/201309_cfpb_bulletin_furnishers.pdf (discussing a furnisher's obligation to review all relevant information received from a CRA in connection with a consumer dispute); Consumer Fin. Prot. Bureau, CFPB Bulletin 2014-01 (Feb. 27, 2014), https://files.consumerfinance.gov/f/201402_cfpb_bulletin_fair-credit-reporting-act.pdf (discussing a furnisher's obligation to investigate disputed information in a consumer credit report and provide notice of inaccurate information to the CRAs).

³⁵ 15 U.S.C. § 1681s-2(a)(8)(F) and 12 CFR § 1022.43(f)(1)-(2).

³⁶ See, e.g., Consumer Fin. Prot. Bureau, *supra* note 26 at Section 2 (discussing data furnishing and furnisher oversight).

³⁷ See Consumer Fin. Prot. Bureau, *Supervisory Highlights: Issue 24, Summer 2021* (Jun. 2021), https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-24_2021-06.pdf.

³⁸ 15 U.S.C. § 1681c-2; 15 U.S.C. § 1681s-2(a)(6). See also CFPB v. Fair Collections & Outsourcing, Inc., No. 8:19-cv-02817-GJH (D. Md. Sept. 16, 2021), https://files.consumerfinance.gov/f/documents/cfpb_fco_proposed_stipulated-jdmt-and-order_2021-08.pdf (CFPB enforcement action against a furnisher of information to consumer reporting agencies for failing to maintain reasonable policies and procedures regarding the accuracy and integrity of the

2.3 CFPB complaint process

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) directs the CFPB to collect, investigate, and respond to consumer complaints.³⁹ The Dodd-Frank Act requires the CFPB to establish reasonable procedures to provide consumers⁴⁰ with a timely written response to complaints⁴¹ concerning a covered person.⁴²

The CFPB accepts complaints about consumer financial products or services through its website, by referral from the White House, congressional offices, other federal and state agencies, and by telephone and mail. When consumers submit complaints through the CFPB website, the online complaint form guides them through a five-step process:

1. Consumers first select the consumer financial product or service with which they have a problem or issue. Within the *credit or consumer reporting* product category, consumers can further select the type of credit reporting product (e.g., credit report and other personal consumer report, such as background checks and employment screening).
2. Next, consumers identify the issue that best describes the problem they experienced. For credit or consumer reporting complaints, options include: *Credit monitoring or identity theft protection services; Improper use of your report; Incorrect information on your report; Problem with a credit reporting company's investigation into an existing problem; Problem with fraud alerts or security freezes; and Unable to get your credit report or credit score*. Consumers are also asked whether they have attempted to fix the problem with the company.
3. Then, the complaint form prompts consumers to describe what happened and their desired resolution using free-form text fields. Consumers are invited to attach relevant documentation and can consent to have their complaint narrative published in the public Consumer Complaint Database.

information it furnishes, including the handling of consumer disputes, failing to conduct reasonable investigations of certain consumer disputes, and failing to cease furnishing information that was alleged to have been the result of identity theft before it made any determination whether the information was accurate.).

³⁹ 12 U.S.C. § 5511(c)(2).

⁴⁰ 12 U.S.C. § 5481(4) (“The term ‘consumer’ means an individual or an agent, trustee, or representative acting on behalf of an individual.”).

⁴¹ See Terminology *supra* Section 1.

⁴² 12 U.S.C. § 5534(a). See also 12 U.S.C. § 5481(6) (The term “covered person” means any person that engages in offering or providing a consumer financial product or service and any affiliate if such affiliate acts as a service provider to such person).

4. After that, consumers identify the company to which they want to direct their complaint. Unlike most other products and services, a consumer's problem with a credit or consumer report may prompt them to submit multiple complaints—e.g., one about the data furnisher and one about the CRA. The complaint form reflects this market feature. When selecting the credit or consumer reporting product category, consumers can choose to name additional companies in a single complaint session.⁴³
5. Finally, the complaint form requires users to identify whether they are submitting the complaint for themselves or on behalf of someone else.⁴⁴ Consumers who submit complaints on their own behalf are required to provide their contact information.⁴⁵ Users submitting complaints on behalf of someone else are required to provide their contact information, as well as the information of the person on whose behalf they are acting. The complaint form also requires users to affirm that the information provided in their complaint is true to the best of their knowledge and belief.⁴⁶

The CFPB routes the complaint directly to the company or companies identified by the consumer for review and response. Where appropriate, complaints are routed to other federal agencies.⁴⁷ Companies are expected to review the information provided in the complaint, communicate with the consumer as needed, determine what action to take in response, and provide a written response to the CFPB and the consumer.

Companies report back to the consumer and the CFPB in writing via a secure Company Portal. Companies choose a closure category that best describes their response. Category options include *Closed with monetary relief*, *Closed with non-monetary relief*, *Closed with explanation*, and administrative options.⁴⁸ Finally, the CFPB invites the consumer to review and provide feedback about the company's response. Consumers can access their complaint online or may

⁴³ In April 2017, in response to feedback from stakeholders and consumers, the CFPB made enhancements to improve the user experience when submitting a complaint. Where consumers previously had to go through the entire submission process separately for each company about which they were submitting a complaint, beginning in April 2017, consumers could use one submission process to submit complaints about up to four companies.

⁴⁴ In May 2021, the CFPB made enhancements to this step of the complaint form. These changes emphasized that a person submitting on behalf of someone else must identify themselves in the complaint submission. Additionally, these changes required that users submitting on behalf of themselves provide an email address.

⁴⁵ Consumers also have the option to provide limited demographic information, such as their age and servicemember status. As of May 2021, users can also disclose their household size and combined annual household income.

⁴⁶ The complaint form requires that users attest to their submission ("The information given is true to the best of my knowledge and belief. I understand that the CFPB cannot act as my lawyer, a court of law, or a financial advisor.").

⁴⁷ For example, when the CFPB receives a complaint about a depository institution with \$10 billion or less in assets or a non-depository that does not offer a consumer financial product or service, it refers the complaint to the appropriate prudential regulator or other regulatory agency.

⁴⁸ See discussion of administrative responses *infra* Section 3.1

call the CFPB to receive status updates, provide additional information, and review responses provided by the company.

Unique to the NCRAs, the CFPB asks additional questions for complaints in which the consumer identified *Incorrect information on your report* or *Problem with a credit reporting company's investigation into an existing problem* as their primary issue:

- Does your company have a record of the consumer disputing this issue in the past?
- Has a data furnisher reported any errors to your company regarding the information disputed in the complaint?

If the response to either question is yes, the NCRAs are required to provide the CFPB with details of any previous FCRA dispute or furnisher-reported error.

The CFPB uses information from its complaint process to inform its work, including its supervisory, enforcement, rulemaking, and educational activities.⁴⁹ The CFPB publishes an annual report to Congress about the complaints it receives, as well as other periodic reports.⁵⁰ The CFPB also makes complaint data publicly available in the Consumer Complaint Database.⁵¹

2.4 Credit monitoring, credit repair, and credit education

A variety of companies offer to mediate the relationship between consumers and their reports and scores. Consumers frequently access their reports and scores through third parties, including credit monitoring services, financial institutions and lenders, identity theft protection

⁴⁹ See, e.g., Consumer Fin. Prot. Bureau, *Having a problem with a financial product or service?*, <https://www.consumerfinance.gov/complaint/> (“Complaints give us insights into problems people are experiencing in the marketplace ...”). See also Consumer Fin. Prot. Bureau, *supra* note 25 (“An effective CMS should ensure that an institution is responsive and responsible in handling consumer complaints and inquiries.”).

⁵⁰ See, e.g., Consumer Response Annual Report (Mar. 2021), *supra* note 12. See also Lewis Kirvan and Robert Ha, Consumer Fin. Prot. Bureau, *Consumer complaints throughout the credit life cycle, by demographic characteristics* (Sep. 2021), https://files.consumerfinance.gov/f/documents/cfpb_consumer-complaints-throughout-credit-life-cycle_report_2021-09.pdf.

⁵¹ See Consumer Fin. Prot. Bureau, Consumer Complaint Database, <https://www.consumerfinance.gov/data-research/consumer-complaints/>.

services, and resellers.⁵² The NCRAs also offer monitoring products (e.g., Experian’s Free Credit Report and FICO Score app) and identity theft protection services (e.g., TransUnion’s TrueIdentity).

Credit repair companies, credit clinics, and similar companies also interact with the credit reporting system. Market research suggests that there are as many as 46,000 businesses that offer credit repair services in the United States—the vast majority of which are sole proprietorships.⁵³ These companies purport to help consumers identify and dispute information on their credit reports, but many charge illegal fees, operate in bad faith, mislead consumers, or are outright fraudulent.⁵⁴ Both the CFPB and the FTC have brought legal actions against credit repair companies. For example, in recent years, the CFPB, the FTC, or both have brought lawsuits against companies charging illegal fees to consumers in violation of the Telemarketing

⁵² See, e.g., Notice of a Public List of Companies Offering Existing Customers Free Access to a Credit Score, 81 FR 69046 (Oct. 5, 2016), <https://www.federalregister.gov/documents/2016/10/05/2016-24014/notice-of-a-public-list-of-companies-offering-existing-customers-free-access-to-a-credit-score> (a Request for Information published by the CFPB to inquire about which credit card providers offered access to a credit score; Consumer Fin. Prot. Bureau, *Where to find free access to a credit score* (Feb. 2017), https://files.consumerfinance.gov/f/documents/201702_cfpb_finding-free-access-to-credit-score_handout.pdf (a list of financial institutions offering free access to credit scores). See also Press Release, Credit Karma, *Credit Karma Money launches bill features aimed at helping members improve their credit scores* (Aug. 11, 2021), <https://www.creditkarma.com/about/releases/credit-karma-money-launches-bill-features-aimed-at-helping-members-improve-their-credit-scores> (“Credit Karma is a consumer technology company with more than 110 million members in the United States, U.K. and Canada, including almost half of all U.S. millennials.”).

⁵³ See, e.g., Arnez Rodriguez, IBISWorld, *US Industry (Specialized) Report Od5741: Credit Repair Services* (Feb. 2021), <https://www.ibisworld.com/united-states/market-research-reports/credit-repair-services-industry/> (noting that these companies frequently offer a variety of services, but that dispute processing is the most common service provided). The CFPB recently brought a lawsuit alleging Credit Repair Cloud and its owner of providing assistance to illegal credit-repair businesses. See Consumer Fin. Prot. Bureau, *CFPB Sues Software Company That Helps Credit-Repair Businesses Charge Illegal Fees* (Sep. 20, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-software-company-that-helps-credit-repair-businesses-charge-illegal-fees/>.

⁵⁴ See, e.g., Fed. Trade Comm’n., *Telemarketing Sales Rule Record*, <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/telemarketing-sales-rule>.

Sales Rule⁵⁵, misleading consumers in violation of the Telemarketing Sales Rule⁵⁶, and violating the Credit Repair Organizations Act, the Consumer Review Fairness Act, the Truth in Lending Act, and the Electronic Fund Transfer Act.⁵⁷ Additionally, the CFPB and FTC have produced and promoted resources intended to educate consumers about how to fix inaccuracies on their credit reports, as well as the potential risks that arise from credit repair offers.⁵⁸

In Congressional testimony, the NCRAs identified credit repair companies as a major challenge in their own dispute processes and in their handling of complaints.⁵⁹ In general, the NCRAs

⁵⁵ See, e.g., Consumer Fin. Prot. Bureau, *Consumer Financial Protection Bureau Files Suit Against Lexington Law, PGX Holdings, and Related Entities* (May 2, 2019), <https://www.consumerfinance.gov/about-us/newsroom/bureau-files-suit-against-lexington-law-pgx-holdings-and-related-entities/> (lawsuit alleging the defendants violated the Telemarketing Sales Rule (TSR) by requesting and receiving payment of prohibited upfront fees for their credit repair services); Fed. Trade Comm'n., *Grand Teton Professionals LLC*, <https://www.ftc.gov/enforcement/cases-proceedings/182-3168/grand-teton-professionals-llc> (alleging credit repair scheme that charged illegal upfront fees and falsely claimed to repair consumers' credit violated the Telemarketing Sales Rule). See also Consumer Fin. Prot. Bureau, *Consumer Financial Protection Bureau and Commonwealth of Massachusetts File Suit Against Credit-Repair Telemarketers* (May 22, 2020), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-commonwealth-massachusetts-file-suit-against-credit-repair-telemarketers/>; Consumer Fin. Prot. Bureau, *CFPB Sues Software Company That Helps Credit-Repair Businesses Charge Illegal Fees* (Sep. 20, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-software-company-that-helps-credit-repair-businesses-charge-illegal-fees/>.

⁵⁶ See, e.g., Consumer Fin. Prot. Bureau, *CFPB Takes Action Against Company and its Owners and Executives for Deceptive Debt-Relief and Credit-Repair Services* (Jun. 29, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-takes-action-against-company-and-its-owners-and-executives-for-deceptive-debt-relief-and-credit-repair-services/>. See also Consumer Fin. Prot. Bureau, *Consumer Financial Protection Bureau Sues Debt Settlement Company FDATA, Inc., and Owners Dean Tucci and Kenneth Wayne Halverson* (Nov. 20, 2020), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-sues-debt-settlement-company-fdata-inc-and-owners-dean-tucci-and-kenneth-wayne-halverson/>.

⁵⁷ See, e.g., Fed. Trade Comm'n., *FTC Stops Operators of Fake Credit Repair Scheme* (Jun. 21, 2019), <https://www.ftc.gov/news-events/press-releases/2019/06/ftc-stops-operators-fake-credit-repair-scheme>. See also Fed. Trade Comm'n., *FTC Returns More than \$3.1 Million to Victims of Student Loan Debt Relief and Credit Repair Scheme* (Mar. 26, 2020), <https://www.ftc.gov/news-events/press-releases/2020/03/ftc-returns-more-31-million-victims-student-loan-debt-relief>.

⁵⁸ See, e.g., Consumer Fin. Prot. Bureau, *A credit repair firm sent me an offer outlining their credit repair program. Should I enroll?* (Jun. 7, 2017), <https://www.consumerfinance.gov/ask-cfpb/a-credit-repair-firm-sent-me-an-offer-outlining-their-credit-repair-program-should-i-enroll-en-327/>. See also Blog, Lisa Weintraub Schifferle, Fed. Trade Comm'n., *Credit repair: Fixing mistakes on your credit report* (Jan. 16, 2020), <https://www.consumer.ftc.gov/blog/2020/01/credit-repair-fixing-mistakes-your-credit-report>.

⁵⁹ See Written Testimony of Beverly Anderson, Equifax, to House Financial Services Comm., Oversight and Investigations Subcomm., *Consumer Credit Reporting: Assess Accuracy and Compliance*, 117th Cong. (May 26, 2021), <https://www.congress.gov/117/meeting/house/112712/witnesses/HHRG-117-BA09-Wstate-AndersonB-20210526.pdf>; Written Testimony of Sandy Anderson, Experian, to House Financial Services Comm., Oversight and Investigations Subcomm., *Consumer Credit Reporting: Assess Accuracy and Compliance*, 117th Cong. (May 26, 2021), <https://www.congress.gov/117/meeting/house/112712/witnesses/HHRG-117-BA09-Wstate-AndersonS-20210526.pdf>; Written Testimony of John Danaher, TransUnion, to House Financial Services Comm., Oversight and Investigations Subcomm., *Consumer Credit Reporting: Assess Accuracy and Compliance*, 117th Cong. (May 26, 2021), <https://www.congress.gov/117/meeting/house/112712/witnesses/HHRG-117-BA09-Wstate-DanaherJ-20210526-U1.pdf>.

claim that credit repair companies submit large volumes of non-meritorious disputes.⁶⁰ They argue that these disputes, if successful in the removal of accurate information, affect the ability of lenders to effectively manage risk.⁶¹ They also assert that the volume of disputes submitted by credit repair organizations reduces resources available to appropriately handle legitimate disputes.⁶² Others, however, have suggested that the NCRAs' actions facilitate the credit repair industry.⁶³

Education providers also mediate the relationship between consumers and their reports and scores. The CFPB, for example, as part of its statutory functions, provides consumers with financial education, including answers to common consumer questions and how-to guides on various topics in credit reporting.⁶⁴ Importantly, the CFPB—and the FTC—also provides sample template letters for consumers to use when disputing information with the CRAs.⁶⁵ The CFPB

⁶⁰ See, e.g., Written Testimony of Sandy Anderson, Experian *supra* note 59 at 2 (“We believe most of his [sic] increase is due to third-party credit repair organizations that file disputes on accurate but negative information to try to game the system.”); Written Testimony of Beverly Anderson, Equifax *supra* note 59 at 4 (“The CFPB complaint portal has been inundated with the rise of credit repair organizations’ submissions disputing accurate but adverse information on consumers’ credit reports.”).

⁶¹ See, e.g., Written Testimony of Rebecca Kuehn, Hudson Cook, LLP on Behalf of the Consumer Data Industry Association, to House Financial Services Comm., Oversight and Investigations Subcomm., *Consumer Credit Reporting: Assess Accuracy and Compliance*, 117th Cong. (May 26, 2021), <https://www.congress.gov/117/meeting/house/112712/witnesses/HHRG-117-BA09-Wstate-KuehnR-20210526.pdf> (“To the extent that these credit repair activities are successful in removing accurate information, they affect a lender’s ability to appropriately assess the risk of their lending decisions, which in turn affects lending quality overall. ... Misuse of the dispute process is detrimental to consumers and the lenders that rely on accurate information to appropriately assess risk.”). See also Written Testimony of Beverly Anderson, Equifax *supra* note 59 at 4 (“If a credit repair organization is successful in clearing accurate, negative information from a report, that consumer may go on to accumulate new credit obligations that the consumer is not able to afford, with lenders now blind to previous obligations or payment behavior.”).

⁶² See, e.g., Written Testimony of Rebecca Kuehn, Hudson Cook, LLP on Behalf of the Consumer Data Industry Association *supra* note 61 (“The time and resources expended investigating disputes made by credit repair companies take away time and resources from focusing on legitimate disputes, which could otherwise be handled more quickly.”).

⁶³ See Written Testimony of Chi Chi Wu, National Consumer Law Center, to House Financial Services Comm., Oversight and Investigations Subcomm., *Consumer Credit Reporting: Assess Accuracy and Compliance*, 117th Cong. (May 26, 2021), <https://www.congress.gov/117/meeting/house/112712/witnesses/HHRG-117-BA09-Wstate-WuC-20210526.pdf> (“[T]here is some indication that, for all their complaints, the credit bureaus have entered into agreements to cooperate with credit repair firms.”).

⁶⁴ See, e.g., Consumer Fin. Prot. Bureau, *Credit reports and scores*, <https://www.consumerfinance.gov/consumer-tools/credit-reports-and-scores/>. See also 12 U.S.C. § 5511(c)(1) (conducting financial education programs is one of the primary functions of the CFPB).

⁶⁵ See, e.g., Consumer Fin. Prot. Bureau, *How do I dispute an error on my credit report?* (Oct. 19, 2021), <https://www.consumerfinance.gov/ask-cfpb/how-do-i-dispute-an-error-on-my-credit-report-en-314/>. See also Fed. Trade Comm’n., *Sample Letter Disputing Errors on Credit Reports to the Business that Supplied the Information*, <https://www.consumer.ftc.gov/articles/sample-letter-disputing-errors-credit-reports-business-supplied-information>.

provides these letters to help guide consumers to include information needed by the CRAs to conduct a reasonable investigation.

New education providers and forms of educational content are also reaching consumers. Support groups,⁶⁶ social media groups,⁶⁷ and influencers⁶⁸ publish and share content about credit reports and scores. Many of these groups and influencers are marketing credit repair goods (e.g., sample letters, kits, books, and seminars) and many are marketing credit repair services.

As will be discussed in Sections 4 and 5, the NCRAs use similarity in narrative text to identify what they suspect are complaints submitted by credit repair organizations. But with the growth of educational content and providers—and the circulation of template language—it becomes increasingly difficult to distinguish template language used by a credit repair organization from template language used by a consumer (e.g., a consumer using a CFPB or FTC sample letter) without contacting the consumer.

⁶⁶ See, e.g., Meetup, *Credit Repair*, <https://www.meetup.com/topics/credit-repair/> (more than 4,000 members across 36 groups) (last visited Dec. 4, 2021).

⁶⁷ See, e.g., Facebook, *Credit Repair Cloud Community*, <https://www.facebook.com/groups/creditrepaircloudcommunity/> (a group with more than 24,000 members) (last visited Dec. 4, 2021). There are many similar groups in this topic area. See also Blog, Credit Karma, Gen Z turns to TikTok and Instagram for financial advice and actually takes it, study finds (Jul. 13, 2021), <https://www.creditkarma.com/about/commentary/gen-z-turns-to-tiktok-and-instagram-for-financial-advice-and-actually-takes-it-study-finds> (“56% of Gen Z and millennials say they intentionally seek out information or advice about personal finance online or through social media platforms”).

⁶⁸ For example, YouTube lists over 1,800 channels that have posted videos with the hashtag #creditrepair. Several of the videos have hundreds of thousands of views. See, e.g., YouTube, *How To REMOVE Hard Inquiries From Credit Report For FREE!*, <https://www.youtube.com/watch?v=qa4-obKYQGU> (video with more than 600,000 views as of Dec. 9, 2021).

3. Complaint data

In 2020, the CFPB received more than 319,000 credit or consumer reporting complaints.⁶⁹ That number was quickly surpassed in 2021 with the CFPB receiving more than 500,000 credit or consumer reporting complaints between January and September alone. Public discussion about credit reporting complaints typically focuses on these record-breaking volumes.⁷⁰ This section goes beyond those headline numbers to better contextualize the complaints data. To do so, this section will discuss factors contributing to the increase in credit or consumer reporting complaints over the past 20 months and the issues that consumers raise in their complaints.

Two details are worth noting at the outset. First, the volume of complaints received by the CFPB, while large, is a fraction of the volume of disputes submitted to furnishers and CRAs annually. Prior CFPB research estimated the NCRAs received millions of consumer contacts disputing the completeness or accuracy of information on their credit reports.⁷¹

Second, the credit reporting industry is the subject of a large number of complaints in part because of its market structure. The industry has a large footprint—credit reports from the NCRAs cover about 1.6 billion credit accounts per month on more than 200 million adults in the United States.⁷² Moreover, because trade line information is often furnished to multiple CRAs,

⁶⁹ See Consumer Response Annual Report (Mar. 2021), *supra* note 12.

⁷⁰ See, e.g., Ann Carrns, NEW YORK TIMES, *More Consumers Complain About Errors on Their Credit Reports* (Feb. 19, 2021), <https://www.nytimes.com/2021/02/19/your-money/credit-report-errors.html> (“Add this to the financial fallout from the pandemic: More consumers are complaining about errors on their credit reports, and many are frustrated when trying to fix the mistakes, according to federal complaint data.”); Kate Berry, AMERICAN BANKER, *Why are complaints about credit bureaus soaring?* (Apr. 30, 2021), <https://www.americanbanker.com/news/why-are-complaints-about-credit-bureaus-soaring> (“Yet the number of complaints to the Consumer Financial Protection Bureau about credit reporting issues soared last year. Equifax, Experian and TransUnion were directly named in 246,000 direct complaints last year, more than double in 2019.”).

⁷¹ See Consumer Fin. Prot. Bureau, *supra* note 1 at 27 (“In 2011, the NCRAs received approximately 8 million consumer contacts disputing the completeness or accuracy of one or more trade lines, public records, or credit header information (identification information) in their files. Based on these contacts, the number of credit-active consumers who disputed one or more items with an NCRA in 2011 ranges from 1.3% to 3.9%.”) (citations omitted).

⁷² See Equifax, *supra* note 3 at 70 (more than 1.6 billion trade lines). Consumers who do not have a credit report may also have issues arising from the fact that they are not in the credit reporting system. See, e.g., Kenneth Brevoort,

consumers frequently submit complaints to all the companies involved, i.e., all of the CRAs to which the information was furnished as well as the furnisher. These two characteristics—a large footprint and the involvement of multiple companies—increase the prominence of credit reporting complaints when considered in the aggregate and makes simple complaint volume comparisons to other product markets inappropriate.

Figure 1 shows the breakdown of companies who were the subject of credit and consumer reporting complaints since 2017. A large percentage of these complaints are submitted about the NCRAs. From January 2020 to September 2021, the CFPB received more than 225,000 complaints about each of the NCRAs (and more than 700,000 about NCRAs, collectively). Although the increase in complaints about the NCRAs accelerated in 2020 and 2021, this upward trend precedes 2020. Complaint volume about other CRAs is also increasing—growing from 3,600 complaints in 2019 to more than 4,300 in 2020.

Phillip Grimm & Michelle Kambara, *supra* note 3; Kenneth Brevoort and Michelle Kambara, Consumer Fin. Prot. Bureau, *CFPB Data Point: Becoming Credit Visible* (Jun. 2017), https://files.consumerfinance.gov/f/documents/BecomingCreditVisible_Data_Point_Final.pdf.

FIGURE 1: BREAKDOWN OF NCRAS AND OTHER RECIPIENTS OF CREDIT OR CONSUMER REPORTING COMPLAINTS, BY YEAR



Significant numbers of credit or consumer reporting complaints are also submitted about companies that furnish information to the NCRAs. In 2020, there were nearly as many credit reporting complaints about furnishers as there were complaints about credit cards, and more complaints were submitted about furnishing than were submitted about bank accounts.⁷³

Table 1 summarizes product-level complaint submissions for several products in 2020 and illustrates that consumers submit more than twice as many credit or consumer reporting complaints as the next most frequently complained about product (debt collection).

⁷³ Many of the complaints that are redirected to another regulator are also complaints about the furnishing of information by smaller depository institutions. In those cases, consumers are prompted to contact the institution's prudential regulator.

TABLE 1: SHARE OF CONSUMERS, COMPLAINTS, AND COMPLAINTS PER CONSUMER IN 2020 FOR THE FIVE PRODUCTS WITH THE GREATEST PER CONSUMER COMPLAINT VOLUME

| | Share of consumers | Share of complaints | Complaints per consumer |
|------------------------------|--------------------|---------------------|-------------------------|
| Credit or consumer reporting | 35.1% | 59.2% | 3.41 |
| Debt collection | 18.6% | 15.1% | 1.64 |
| Credit card | 11.2% | 6.6% | 1.19 |
| Checking or savings | 9.9% | 5.5% | 1.13 |
| Mortgage | 9.7% | 5.4% | 1.13 |

3.1 Factors underlying complaint volume increases

The CFPB has a unique perspective on the credit reporting marketplace. In addition to being able to analyze differences in the complaint response performance at the NCRAs (Section 5), the CFPB can analyze data to identify trends in the use of its complaint process.

In this section, the CFPB summarizes some of the factors contributing to the increase in credit or consumer reporting complaint volume. There are many factors that plausibly could have contributed to this increase (e.g., accommodations provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act⁷⁴; changes in regulatory guidance during the COVID-19 pandemic⁷⁵; increased shopping for mortgage credit and mortgage refinance credit due to low interest rates⁷⁶; increased consumer awareness of the salience of credit reports). This section will focus its discussion on the behavior of those who use the complaint process.

⁷⁴ See generally Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, § 4021 (2020).

⁷⁵ See Consumer Fin. Prot. Bureau, *Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act*, https://files.consumerfinance.gov/f/documents/cfpb_credit-reporting-policy-statement_cares-act_2020-04.pdf. See also Letter from consumer advocacy organizations to Kathy Kraninger, Consumer Fin. Prot. Bureau (Sep. 24, 2020), https://www.nclc.org/images/pdf/credit_reports/Letter-to-CFPB-urging-revocation-of-extra-time-for-disputes.pdf (noting a dramatic increase in consumer complaints following implementation of guidance for CRAs).

⁷⁶ Although not a statistically valid sample, many consumers the CFPB talked with mentioned mortgage credit, and housing more generally, as a motivating factor for working on their credit.

Consumers are submitting more complaints in each session

As shown in Figure 2, consumers who submit credit reporting complaints are increasingly submitting multiple complaints to the CFPB in a single session. Several factors may explain this change in complaint behavior. First, with increased access to credit reports and scores, consumers' awareness of the actors making up the credit reporting system may be increasing.⁷⁷ Second, conversations with consumers suggest that eligibility for mortgage credit is a priority for many consumers who review their credit history.⁷⁸ Because the standard credit report used in residential mortgage transactions includes data from all three NCRAs (i.e., the so called "tri-merge report"), these consumers may be more likely to submit complaints about all three NCRAs because of their exposure to all three companies.⁷⁹ Finally, to the extent that consumers are working with third parties or consulting educational resources, those third parties and resources are likely to be aware of all three NCRAs and furnisher obligations, which may also contribute to this increase.⁸⁰

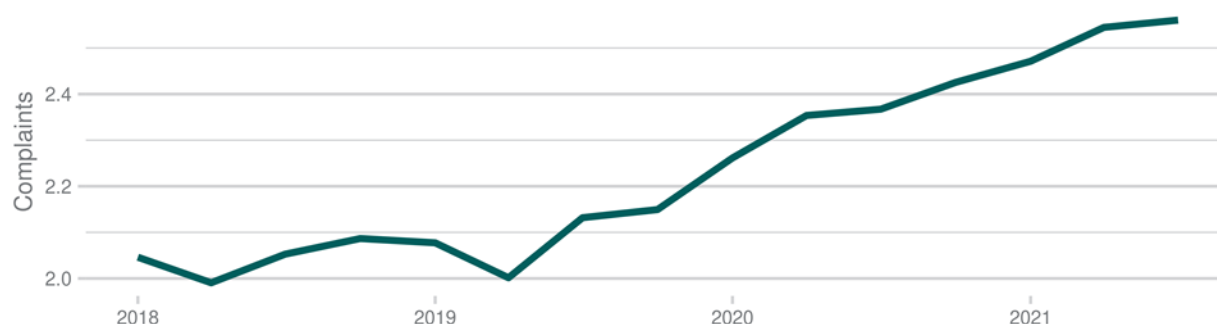
⁷⁷ See Blog, Liane Fiano, Consumer Fin. Prot. Bureau, Protecting your credit during the coronavirus pandemic (Jul. 29, 2020), <https://www.consumerfinance.gov/about-us/blog/protecting-your-credit-during-coronavirus-pandemic/> ("Right now, it's easier than ever to check your credit report more often. That's because everyone is eligible to get free weekly online credit reports from the three nationwide credit reporting agencies: Equifax, Experian, and Transunion.").

⁷⁸ Checking credit is often considered among the first steps in purchasing a home. See, e.g., Blog, Erica Kritt, Consumer Fin. Prot. Bureau, *Buying a home? The first step is to check your credit* (Jan. 9, 2017), <https://www.consumerfinance.gov/about-us/blog/buying-home-first-step-check-your-credit/> ("[I]f you are thinking about buying a home this year, let's make a plan. The first step: Check your credit."); Freddie Mac, *Understanding your credit*, <https://myhome.freddiemac.com/buying/understanding-your-credit> ("Your credit score and history play a prominent role in determining your eligibility for a mortgage. As such, it's vital you recognize the value of having strong credit when buying a home.").

⁷⁹ Several consumers connected their credit scores with the current low interest rate environment explicitly. It is possible that consumers, aware that low mortgage interest rates are likely to be transitory, are much more motivated to work on their credit currently. This factor may also be driving consumers to engage third parties.

⁸⁰ See, e.g., Consumer Fin. Prot. Bureau, *supra* note 65 (providing information for how to dispute errors on credit reports and providing contact information for the NCRAs).

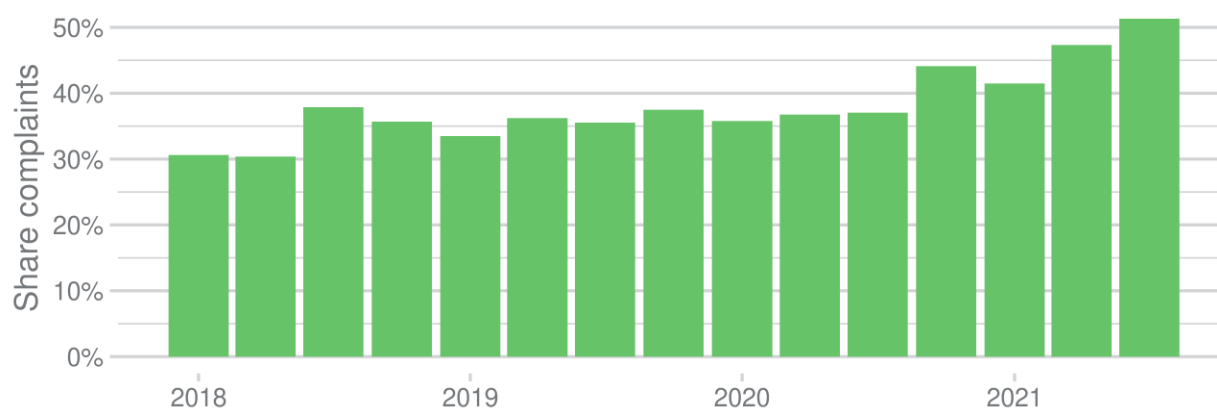
FIGURE 2: AVERAGE NUMBER OF CREDIT OR CONSUMER REPORTING COMPLAINTS SUBMITTED PER COMPLAINT SESSION BY QUARTER



Consumers are increasingly returning to the complaint process

The share of complaints submitted by consumers who previously submitted complaints increased over the last year. In 2019, approximately 35% of complaints were submitted by consumers who had previously submitted a complaint (Figure 3). That share increased to more than 50% of complaints in the most recent quarter. The timing of this transition lags behind the general increase in complaints that began in March 2020. As discussed in Section 5, many consumers did not receive a substantive response to their initial complaints about the NCRAs. These non-substantive responses can increase the total number of complaints when dissatisfied consumers submit a subsequent complaint with the hope that their original issue will be addressed. The CFPB has a process for companies to identify—and return—duplicate complaints when consumers submit a complaint that does not describe or include any new issue, instance, or information. From January 2020 to September 2021, the NCRAs returned fewer than 1% of complaints to the CFPB using this process.

FIGURE 3: QUARTERLY SHARE OF CREDIT OR CONSUMER REPORTING COMPLAINTS WHERE CONSUMER PREVIOUSLY SUBMITTED CREDIT OR CONSUMER REPORTING COMPLAINTS



Third parties are using the complaint process

The Dodd-Frank Act directs the CFPB to accept complaints from consumers and their representatives, which include an agent, trustee, or representative acting on behalf of an individual.⁸¹ The CFPB's online complaint form permits complaints to be submitted by consumers or third parties acting on their behalf, and it expressly states that third parties must disclose their involvement.⁸² The form further requires consumers and those acting on their behalf to attest to the truthfulness of their submission to the CFPB.⁸³ When a third party submits a complaint on behalf of a consumer but lacks authority to act on their behalf, companies are able to respond to the CFPB via an administrative response process.⁸⁴ Administrative responses allow companies to return complaints to the CFPB with an explanation as to why the company is not providing a substantive response to the complaint.⁸⁵ Complaints returned with administrative responses are not currently made publicly available in the Consumer Complaint Database.⁸⁶

The CFPB maintains processes and procedures to protect the integrity of the complaint system. It has refined, and continues to refine, these processes to detect and discontinue the processing of complaints where the CFPB has reason to believe that third parties are not disclosing their involvement in the complaint process.⁸⁷ The more than 3,200 companies that responded to complaints in 2021 play an important role in informing these processes. When these companies suspect that an unauthorized third party is involved in a complaint submission, they typically communicate with the consumer to confirm that they authorized the complaint submission.

⁸¹ See 12 U.S.C. § 5511(c)(2) and 12 U.S.C. § 5481(4).

⁸² In Step 5, the online complaint form asks, *Who are you submitting this complaint for?* Users can select from either *Myself* (I am submitting this complaint for myself) or *Someone else* (The consumer has authorized me to submit this complaint for them). See Consumer Fin. Prot. Bureau, *Complaint Form*, <https://www.consumerfinance.gov/complaint/getting-started/>.

⁸³ The complaint form requires that users attest to their submission (“The information given is true to the best of my knowledge and belief. I understand that the CFPB cannot act as my lawyer, a court of law, or a financial advisor.”).

⁸⁴ When a company identifies a complaint that was submitted by or includes an unauthorized third party, they may use administrative response options and describe the basis for determining the named consumer did not submit the complaint or authorize submission of the complaint on their behalf.

⁸⁵ The CFPB does not request a response in limited circumstances. For example, a company is not required to respond to a complaint when it is in active litigation with a consumer.

⁸⁶ See Disclosure of Consumer Complaint Narrative Data, *supra* note 14. See also Consumer Complaint Database, *supra* note 14, [Filtered Results in the Consumer Complaint Database](#) (showing an effect of changing NCRA response behavior over time; filtered to display complaints closed by the NCRAs' complaints with *Closed with monetary relief*, *Closed with non-monetary relief*, or *Closed with explanation*).

⁸⁷ Complaints identified under this process are not forwarded to companies and are not currently published in the Consumer Complaint Database; instead, the CFPB sends a response letter or email to the individual listed on the submission, informing them that their complaint will not be processed and noting the steps they may take to submit a complaint.

When companies identify complaints submitted without the authorization of the consumer, the CFPB is able to use this information to prevent future submissions by such unauthorized third parties.

The NCRAs disregard this process and do not take available steps to distinguish between complaints authorized by the consumer and those not authorized by the consumer. Instead, the NCRAs use proxies (e.g., similarity in narrative text) to identify complaints they suspect, though have not confirmed, were submitted by a third party.⁸⁸ The NCRAs then use this speculative assessment to justify not responding to the issue(s) raised in a complaint.

The NCRAs do not respond to complaints they suspect are submitted by third parties because they inappropriately conflate different obligations.⁸⁹ Under existing FTC guidance (and some case law), NCRAs do not need to investigate disputes submitted by third parties, such as credit repair organizations.⁹⁰ The FTC guidance concerns *disputes* submitted under FCRA Section 611(a). The guidance does not address duties to review *complaints* transmitted by the CFPB under FCRA section 611(e). This exception in the dispute investigation obligation does not apply to covered complaints submitted to the CFPB. The CFPB expects that companies, including the NCRAs, should reasonably review and respond to complaints legitimately submitted by a third party on behalf of a consumer, and there is no guidance or caselaw precedent to the contrary.

In conversations with consumers who submitted complaints that were identified by the NCRAs as having met their definition for credit repair, consumers described varied personal experiences.⁹¹ Some consumers stated that they had not received any outside assistance, but had used freely available online resources, such as guidance provided by the CFPB and the FTC. Others stated that they had completed credit self-help trainings, received guidance from social media influencers, or relied on other sources of credit education. Other consumers

⁸⁸ The CFPB has observed complaints where its sample letters to dispute information on a credit report, and language recommended by the FTC's guidance, do not receive a response from the NCRAs because the language met their criteria for suspected third-party involvement. This suggests that the NCRAs may not be examining the quality or origin of the forms they identify and highlights the issue with using template language as a proxy for unauthorized complaint submissions.

⁸⁹ Because the NCRAs do not respond to submissions they deem to be from third parties, credit repair organizations are incentivized to conceal their involvement in the complaint process.

⁹⁰ See, e.g., Fed. Trade Comm'n., 40 Years of Experience with the Fair Credit Reporting Act: An FTC Staff Report with Summary of Interpretations (Jul 2011), <https://www.ftc.gov/sites/default/files/documents/reports/40-years-experience-fair-credit-reporting-act-ftc-staff-report-summary-interpretations/110720fcrareport.pdf> ("ACRA need not investigate a dispute about a consumer's file raised by a third party – such as a 'credit repair organization' defined in 15 U.S.C. § 1679a(3) – because the obligation under this section [611(a)] arises only where file information is disputed 'by the consumer' who notifies the agency 'directly' of such dispute."); *Warnerv. Experian Info. Solutions, Inc.*, 931 F.3d 917, 921 (9th Cir. 2019). See also *Cohen v. Equifax Info. Services*, 2019 WL 5200759, at *6 (S.D.N.Y. Sept. 13, 2019) *aff'd*, 827 Fed. Appx. 14 (2d Cir. 2020) (disputes submitted by credit repair organization did not trigger reinvestigation obligation, but dispute submitted by attorney did).

⁹¹ See discussion about data sources *supra* Section 1.

acknowledged that they have used or are currently working with third parties, including credit repair companies, to try to improve their credit records. Within this last group of consumers, experiences differed. Some consumers were aware that the third party submitted a complaint on their behalf. Some said that they were not aware of the complaint itself, but that they had authorized a third party to act on their behalf after reviewing their credit report. The CFPB would expect the NCRA to review and substantively respond to the complaints in all of these scenarios.

As discussed in Section 2, the growth of credit advice providers and influencers, alongside the diffuse structure of the credit repair marketplace, makes it difficult to reliably distinguish complaints that are submitted by a consumer acting on their own from those submitted without the consumer's knowledge or from hybrid situations in which the consumer plays a role in the submission but is assisted by a third party without contacting the consumer.

3.2 Consumer issues and harms

The NCRAs began receiving credit and consumer reporting complaints from the CFPB in October 2012. The CFPB has analyzed issues consumers describe in these complaints for years. The CFPB has previously highlighted complaints about delays in correcting inaccuracies⁹², problems with the dispute process for identity theft victims⁹³, incorrect debt collection items appearing on credit reports⁹⁴, the effect of data breaches⁹⁵, and incorrect account details

⁹² See, e.g., Consumer Fin. Prot. Bureau, Consumer Response Annual Report (Mar. 2015) at 60, https://files.consumerfinance.gov/f/201503_cfpb_consumer-response-annual-report-2014.pdf (“Consumers express concern about various inaccuracies and delays in correcting information on credit reports.”).

⁹³ See, e.g., Consumer Fin. Prot. Bureau, Consumer Response Annual Report (Mar. 2016) at 20 https://files.consumerfinance.gov/f/201604_cfpb_consumer-response-annual-report-2015.pdf (“Consumers report that credit reporting companies sometimes return findings on their disputes within only a few days, and consumers question the depth and validity of such quick investigations.”); Consumer Response Annual Report (Mar. 2020), *supra* note 11 at 19 (“In their complaints, consumers frequently indicated they were victims of identity theft. These consumers often provided copies of an identity theft affidavit or other documentation.”); Consumer Fin. Prot. Bureau, Consumer Response Annual Report (Mar. 2018) at 14, https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2017.pdf (“Consumers’ complaints described the difficulties they encountered as they tried to resolve their identity theft claims, even when they provided—to the consumer reporting company, to the company that furnished the information to the consumer reporting company, or to both—the appropriate identity theft documentation, such as a police report.”)

⁹⁴ See, e.g., Consumer Fin. Prot. Bureau, Consumer Response Annual Report (Mar. 2017) at 19, https://files.consumerfinance.gov/f/documents/201703_cfpb_Consumer-Response-Annual-Report-2016.PDF (“These complaints frequently involve debt collection items. In some cases, consumers report having paid the debt appearing on their report. In other complaints, consumers assert the debt is no longer due because the debt is too old to be enforced in court.”).

⁹⁵ See, e.g., Consumer Response Annual Report (Mar. 2018), *supra* note 93 at 14 (“In 2017, a breach of consumers’ data at Equifax resulted in the submission of a large volume of complaints. Some consumers complained about being affected by the breach based on the notification they had received from Equifax.”).

appearing on credit reports⁹⁶. The CFPB has also noted specific concerns with inaccurate reporting for servicemembers, whose need to maintain security clearances can be adversely impacted by a history of failing to meet financial obligations, being in excessive debt, or having a high debt-to-income ratio.⁹⁷ Here, the CFPB summarizes some of the most common problems reported by consumers in their complaints, as well as some of the real-world consequences associated with those problems.

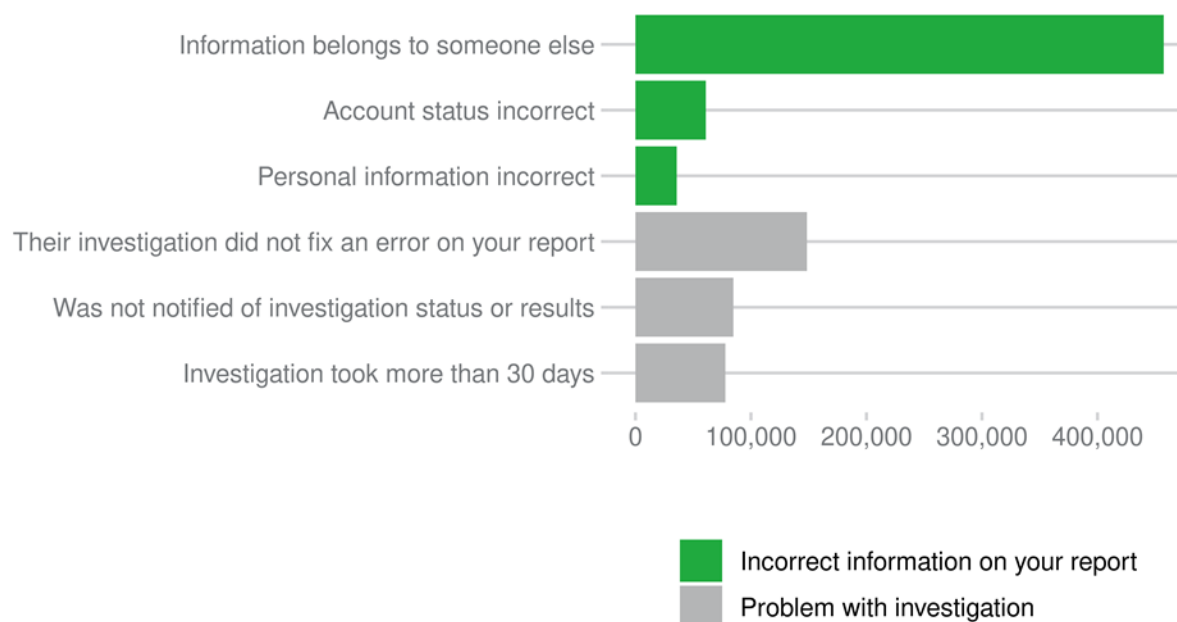
Consumers submit complaints about incorrect information

The most common credit reporting issue identified by consumers is *Incorrect information on your report*. Within that issue, the most common sub-issue, and the largest overall sub-issue by volume, is *Information belongs to someone else*. Figure 4 depicts the total volume of the consumer identified sub-issues that had the largest increases in volume in 2020 over 2019.

⁹⁶ See, e.g., Consumer Fin. Prot. Bureau, Consumer Response Annual Report (Mar. 2019) at 20 https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report-2018.pdf (“[Consumers] who complained about incorrect information on a report acknowledged the accounts were theirs but disputed specific details, such as the account status or other information (e.g., open date, outstanding balance).”).

⁹⁷ See, e.g., Consumer Fin. Prot. Bureau, Office of Servicemember Affairs Annual Report (May 2021) at 17-18, https://files.consumerfinance.gov/f/documents/cfpb_osa-annual-report-2020.pdf. See also Consumer Fin. Prot. Bureau, WARNO: New security clearance guidelines make it more important than ever for servicemembers to monitor their credit (Aug. 20, 2018), <https://www.consumerfinance.gov/about-us/blog/warno-new-security-clearance-guidelines-make-it-more-important-ever-servicemembers-monitor-their-credit/>.

FIGURE 4: TOTAL VOLUME OF SUB-ISSUES WITH THE LARGEST PERCENT INCREASE IN VOLUME IN 2020



The majority of complaints about *Incorrect information on your report* involve consumer claims of identity theft.⁹⁸ These complaints often include a request to block information under FCRA Section 605B or a request under FCRA Section 611 for reinvestigations of inaccurate information resulting from identity theft.⁹⁹ Consumers frequently include with their complaints FTC fraud affidavits, identifying documents (e.g., copy of a driver’s license), and complete address information. They also often include formulaic descriptions of their issues or legal boilerplate language.

Figure 5 illustrates an example complaint describing identity theft. Such complaints—with boilerplate language and identifying documents—are routinely returned by the NCRA to the CFPB using a suspected third-party template.¹⁰⁰ Although the boilerplate language in the complaint may give rise to a suspicion that a third party is involved, the language on its own is





⁹⁸ The NCRA acknowledges that identity theft is a large—and increasing—area of concern for consumers, especially because of large data breaches. See, e.g., Annual Report, *Experian Annual Report 2020* (Jun. 1, 2020) at 30, <https://www.experianplc.com/media/4001/experian-annual-report-2020.pdf> (estimating that 5.66% of US consumers were victims of identity theft in 2018, which costs US business more than \$50 billion dollars annually).

⁹⁹ 15 U.S.C. § 1681c-2; 15 U.S.C. § 1681i.

¹⁰⁰ See discussion *infra* Section 5.2. For the victims of identity theft who are attempting to address inaccuracies on their credit, this rejection may further extend the time it takes them to recover. See also Experian, *infra* note 106.

not sufficient to determine that the complaint is unauthorized without additional inquiry of the consumer by the NCRAs—especially when identifying documents are included in the submission.

FIGURE 5: ILLUSTRATIVE COMPLAINT DESCRIBING IDENTITY THEFT

| PRODUCT | COMPLAINT |
|---|---|
| Credit or consumer reporting: Credit reporting | <p>My FTC Identity Theft Report is attached because I was a victim of identity theft. I have given my complete approval to this notification and its implementation. My identity theft affidavit was also mailed to all relevant credit reporting agencies. I have never provided my written consent or endorsed anything, identity theft happens, and I have a right to privacy.</p> <ul style="list-style-type: none"> ▪ [Account *****] ▪ [Account *****] <p>...</p> |
| ISSUE | DESIRED RESOLUTION |
| Incorrect information on your report: Information belongs to someone else | Please remove all unauthorized, fraudulent accounts promptly within 4 days of receipt pursuant to 15 USC 1681-c-2 & 12 CFR 1022, Regulation V, to prevent further legal action. I have already contacted the respective companies as well. |
| | ATTACHMENTS |
| | <p> FTC Identity theft affidavit</p> <p> Copy of driver's license</p> <p> List of accounts</p> <p> Recent utility bill</p> |

An increase in complaints about identity theft is not surprising. News outlets, consumer advocates, industry, and others have all noted the prevalence, risks, and consequences of identity theft.¹⁰¹ Following large data breaches, consumers heard stories about identity theft and

¹⁰¹ See, e.g., Rob Lieber, New York Times, How Identity Thieves Took My Wife for a Ride (Apr 27, 2021), <https://www.nytimes.com/2021/04/27/your-money/identity-theft-auto-insurance.html>; U.S. PIRG, The Worst Consumer Problem: Fraud / Identity Theft (Mar. 2, 2021), <https://uspirg.org/feature/usp/worst-consumer-problem-fraud-identity-theft>; Shirley Inscoe, Aite Group, U.S. Identity Theft: The Stark Reality (Mar. 2021), <https://www.giact.com/aite-report-us-identity-theft-the-stark-reality/>; AARP, Pandemic Proves to Be Fertile Ground for Identity Thieves (Feb. 5, 2021), <https://www.aarp.org/money/scams-fraud/info-2021/ftc-fraud-report-identity-theft-pandemic.html>.

how difficult the recovery process can be.¹⁰² Some researchers estimate that in the past two years, 37% of consumers have been victims of someone using their identity to open a new account of some type.¹⁰³ Research by the Bureau of Justice Statistics suggests that the unauthorized opening of new accounts and misuse of personal information are the types of identity theft most likely to go unresolved for long periods of time.¹⁰⁴ For example, greater than 10% of victims were still dealing with the consequences of these types of identity theft 12 months or more after discovering them.¹⁰⁵ Given an estimated victimization rate of around 1% of adults in 2018, the pool of victims with unresolved identity theft issues is likely quite large.¹⁰⁶

Consumers submit complaints about attempts to correct errors

The CFPB also receives a large volume of complaints where the consumer identifies their primary issue as *Problem with a credit reporting company's investigation into an existing problem*—e.g., problems with the results, or lack of results, from a prior dispute.¹⁰⁷ Historically, the CFPB received between two and four times as many complaints about credit report inaccuracies as complaints about prior investigations. In September 2021, however, the Bureau received nearly an equal share of complaints about credit report inaccuracies and complaints about prior investigations.

Figure 6 shows the volume of the three sub-issues with the largest increase in complaints, as a percentage of January 2018 levels. It illustrates that both *Information belongs to someone else* and *Personal information incorrect* increased significantly. Complaints about prior investigations, although a much smaller share of complaints in 2018, have seen an even larger

¹⁰² See, e.g., Shirley Inscoc, *supra* note 101 (“Many consumers fear becoming victims of identity theft. Everyone has heard horror stories of how difficult it is to recover from an imposter stealing your identity, amassing debt, or causing other problems.”).

¹⁰³ *Id.* at 12.

¹⁰⁴ See Erika Harrell, *Bureau of Justice Statistics*, Victims of Identity Theft, 2018 (Apr. 2021), <https://bjs.ojp.gov/content/pub/pdf/vit18.pdf> (“Victims of the misuse of one type of existing account were more likely to resolve financial and credit problems within 1 day than victims of the opening of a new account only, victims of the misuse of personal information for other fraudulent purposes only, or victims of multiple types of identity theft.”) (referenced omitted).

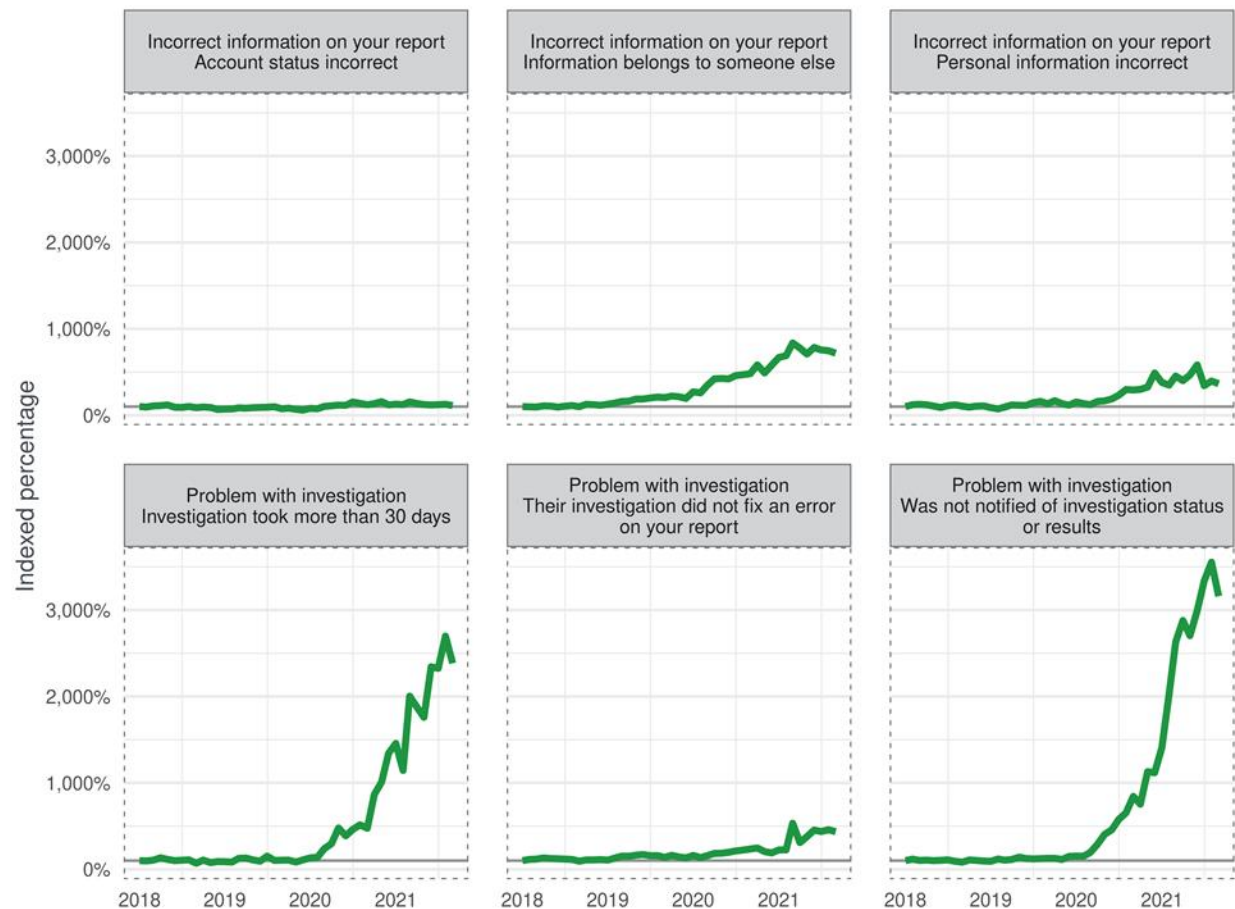
¹⁰⁵ *Id.* at 12.

¹⁰⁶ *Id.* at 12 (research showing that these issues were more likely to result in “credit related” problems, such as higher interest rates). See also Blog, Experian, *What to know about the effects of identity theft* (July 2019), <https://www.experian.com/blogs/ask-experian/how-long-can-the-effects-of-identity-theft-last/> (“If someone steals your SSN to open a credit account in your name, for instance, it can take months to work with the creditor and credit reporting agencies to dispute it and prove it wasn’t you. And if someone manages to use your identity to incur tax debt and commit other crimes and major violations, it could take years of work to undo the damage.”).

¹⁰⁷ Consumers who identify *Problem with a credit reporting company’s investigation into an existing problem* can select from one of five sub-issues: *Investigations took more than 30 days*; *Was not notified of investigation status or results*; *Their investigation did not fix an error on your report*; *Difficulty submitting a dispute or getting information about a dispute over the phone*; *Problem with personal statement of dispute*.

percentage increase. That increasing rate accelerated following changes in complaint responses at the NCRAs in early 2020.

FIGURE 6: MONTHLY TIME SERIES OF TYPES OF COMPLAINTS WITH LARGEST INCREASES, INDEXED TO JANUARY 2018



This figure, indexed to January 2018, plots the sub-issues that saw the greatest increase in volume for the issue categories, *Incorrect information on your report* and *Problem with a credit reporting company's investigation into an existing problem*.

Consumers also describe real (and sometimes, costly) consequences

The issues associated with inaccurate information and problems when attempting to correct information do not occur in a vacuum. Consumers encounter issues with credit reports as they navigate their own unique circumstances: seeking new credit, attempting to buy a house, struggling with a pandemic, among many other scenarios. Conversations with consumers further underscore that there can be serious consequences when inaccurate information is—and remains—on a consumer's credit report. For example:

Consumers shared feeling frustrated by a dispute process that has not worked for them. Consumers often describe how they attempted to dispute inaccurate trade lines with the NCRAs but were ultimately unsuccessful.¹⁰⁸ For example, according to a consumer:

I was able to verify incorrect information on my credit report, since that moment I just started the process to get in touch with the Credit Bureaus in an attempt to get this issue corrected. The sad truth is that I never got an answer. I sent letters for at least 4 times and never got an update or any kind of correspondence. At this point I am very much frustrated to keep trying to receive an answer from the Credit Bureaus.¹⁰⁹

Consumers shared feeling stressed when their attempts to correct inaccurate information go unanswered. Consumers often report that they are managing other personal issues and having to repeatedly dispute inaccurate information is adding unnecessary burden to their lives. For example, according to a consumer:

I mailed all three credit bureaus a letter disputing some inaccurate things on my credit report. It has been almost 70 days and I have not received a response. I understand that COVID has caused a lot of things to slow down, but this is a bit too long waiting for a response. Reviewing some of the things on my [NCRA] report makes me feel that I have been impacted by their data breach and my personal information has been used by the wrong person or persons. This has caused me quite a bit of stress especially dealing with the deaths of my friends due to COVID. I am asking that these items be removed from my credit report.¹¹⁰

Consumers shared that they spent time and money attempting to resolve their issues. Consumers often describe the amount of time it takes them to correct inaccurate information. Consumers also sometimes report money spent on having documents notarized and sending documents by registered mail. For example, according to a consumer:

I have sent in three different dispute letters in regards to unidentified accounts. These dispute letters were dated 6/8/2020, 8/12/2020, and 12/10/2020. I have

¹⁰⁸ See also Fed. Trade Comm'n., Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (Jan. 2015), <https://www.ftc.gov/system/files/documents/reports/section-319-fair-accurate-credit-transactions-act-2003-sixth-interim-final-report-federal-trade/150121factareport.pdf> (study finding most consumers who previously reported an unresolved error on one of their three major credit reports believe that at least one piece of disputed information on their report is still inaccurate).

¹⁰⁹ Consumer Complaint 4765358, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4765358>.

¹¹⁰ Consumer Complaint 4749534, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4749534>.

spent money printing the letters, getting them notarized and having them mailed priority. The creditors or bureau has not sent me any documentation with proof that these accounts were correct. I have spent too much time in regards to the matter.¹¹¹

Consumers discovered that debts they were unaware of had been furnished to their credit report. Some of these consumers describe discovering these items on their credit reports when they were making significant financial decisions, such as buying a house. For example, according to a consumer:

I was in the process of buying a home but when my loan officer checked my credit, they told me I had a collection on my report. I said collection? You got to be kidding me! Then he told me it was some kind of a medical bill. So I looked up my credit report and saw that it was from some company ... and I'm telling you that I have never had any services from these people so I disputed it online. The bureaus so far have refused to delete it which I have no idea why. I also got a response from [Company] with 3 bills, all of which said that I did not owe them anything so why are they on my credit report? I don't even recognize the doctor's name or the date of services listed as I never had these services and I think either someone used my identity to get these medical services or they incorrectly billed me for someone else's treatment. This account has lowered my score almost 100 points and is preventing me from buying a house. I need it off my credit ASAP or I am going to get a lawyer and sue everyone involved.¹¹²

Consumers who reported they were victims of identity theft shared their difficulties in reaching a resolution and often described lengthy back-and-forth processes. Resolving inaccuracies related to identity theft can be particularly complicated. Consumers described being caught in a loop of obtaining documentation and sending it to NCRAs and furnishers, only to have no updates made to their reports. For example, according to a consumer:

I had to dispute back and forth multiple times in writing with [NCRA] in 2017 to remove an address in Arizona that was fraudulent as I have never lived in Arizona and it was tied to someone stealing my credit to open an account (which I reported to the police). I have a written report from [NCRA] in 2017 stating that they agreed

¹¹¹ Consumer Complaint 4118528, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4118528>.

¹¹² Consumer Complaint 4648298, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4648298>.

the address is fraudulent and had removed it. In June 2020, they put that same address back on my credit report. I filed a complaint with CFPB and [NCRA] removed the incorrect address. This year (2021), I see that the same address has been returned to my credit report by [NCRA].¹¹³

Consumers described being caught between furnishers and the NCRAs. NCRAs rely on furnishers to provide accurate information. When consumers are victims of identity theft, they are often the only ones who conclusively know whether they applied for new accounts. Although the NCRAs or data furnishers may notice signs of identity theft, consumers are the ones often left to resolve the problem. For example:

I was the victim of fraud/identity theft and someone opened a credit card in my name. ... I reached out to [company] and spoke with two different people, and they did offer to close the account, but I asked them to remove the credit inquiry from my credit file. They stated to file a report with the credit bureaus. I felt like they should have done more.¹¹⁴

Consumers shared that instead of having their issues resolved from the dispute process, they simply gave up. Some consumers, resigned that they had done everything they could, described living with incorrect information on their credit report. For some consumers who had a debt collection item on their report, it sometimes meant paying a bill they said they did not owe to try to make their problems go away. For example, according to a consumer:

This case is about abusing credit systems and collecting to force consumers' hands to pay regardless of whether or not they are truly at fault. My wife and I moved from [Company A] to [Company B] in 2019. [Company A] claimed we still owed them [\$220.00]. They could not provide a statement with the charges, and our account online showed [\$0.00] balance when we left them. After going back and forth they simply turned the matter over to a collection agency, who then, in turn, reported to [NCRA] to force us to pay while we still did not get a statement of fact. We eventually paid the [\$220.00] last year to make this go away, but this cost my credit score 60+ points. We filed a complaint with [NCRA] but they use their

¹¹³ Consumer Complaint 4732020, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4732020>.

¹¹⁴ Consumer Complaint 4554886, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4554886> (permission to publish narrative obtained from the consumer).

bureaucratic process to justify keeping this on my report. This entire process is stacked against us as consumers ...¹¹⁵

Problems experienced in credit reporting are not limited to any one community; however, recent CFPB research suggests that these burdens may be affecting communities differently. As noted in a recent Bureau report, communities of color and lower income communities tend to submit complaints to the CFPB about credit reporting at a higher rate than other communities.¹¹⁶ This finding is consistent with other recent work analyzing demographic characteristics of consumers who dispute items on their credit report by examining a sample of credit report records obtained from one of the NCRAs.¹¹⁷

¹¹⁵ Consumer Complaint 4768092, <https://www.consumerfinance.gov/data-research/consumer-complaints/search/detail/4768092>.

¹¹⁶ See Lewis Kirvan and Robert Ha, *supra* note 50.

¹¹⁷ See Ryan Sandler, *Disputes on Credit Reports*, Consumer Credit Trends (Nov. 2021), https://files.consumerfinance.gov/f/documents/cfpb_disputes-on-consumer-credit-reports_report_2021-11.pdf (finding consumers who have disputes reported were more likely to reside in census tracts that were majority Black or majority Hispanic).

4. Fair Credit Reporting Act Section 611(e)

Congress substantively amended the FCRA with the passage of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act).¹¹⁸ This Section briefly summarizes the FACT Act, including the resulting complaint handling responsibilities.

4.1 The Fair and Accurate Credit Transactions Act

The FACT Act created new responsibilities for CRAs, users of consumer reports, and furnishers. It also improved access to consumer report information to help increase the accuracy of data in the consumer reporting system and contained provisions to address identity theft.¹¹⁹

Importantly for the purposes of this report, the FACT Act amended FCRA Section 611 by adding subsection (e).¹²⁰ This subsection requires federal agencies—initially the FTC and later the CFPB—to “compile” and “transmit” certain complaints to the NCRAs.¹²¹ Specifically, the complaints that must be compiled and transmitted are those that meet two criteria: (1) the consumer states that their file maintained by a NCRA contains incomplete or inaccurate information, and (2) the consumer appears to have disputed the completeness or accuracy with the NCRA or otherwise utilized the procedures under FCRA Section 611(a). These complaints are referred to in this report as “covered complaints.” FCRA Section 611(e) also requires a NCRA

¹¹⁸ Pub. L. No. 108-159, 117 Stat. 1952 (FACT Act).

¹¹⁹ See, e.g., Fed. Trade Comm’n., *supra* note 90 at 3 (For example, the FACT Act established a national fraud alert system, required merchants to truncate account numbers on electronic credit/debit card receipts, and ordered agencies to promulgate rules on proper disposition of consumer report information and on what companies should do to respond to the “red flag” indicators of identity theft.).

¹²⁰ FACT Act § 313.

¹²¹ 15 U.S.C. § 1681i(e)(1).

to review each covered complaint to determine whether all legal obligations under the FCRA (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint. Further, the NCRAs must provide reports on a regular basis to the Bureau regarding the “determinations of and actions taken by” the NCRA, if any, in connection with their review.¹²²

The 611(e) process provides an opportunity for consumers to escalate, through a complaint to the CFPB, previously filed disputes about incomplete or inaccurate information on their reports such that a NCRA must review the complaint to ensure that its legal obligations have been met.¹²³ Notably, these requirements appeared in Title III of the FACT Act—the title devoted to enhancing the accuracy of consumer report information—indicating the close relationship between effective handling of consumer disputes and the accuracy of reports.

4.2 Transmission of complaints and data collection

The FTC was responsible for compiling and transmitting covered complaints pursuant to FCRA Section 611(e) to the NCRAs beginning in 2004. The CFPB assumed this responsibility in 2011 and currently manages this process.

FTC complaints program

For more than twenty years, the FTC has collected information on consumer complaints.¹²⁴ The FTC makes this information available to its law enforcement members in Consumer Sentinel, a database that provides secure access to complaints received by the FTC and other data contributors.¹²⁵

¹²² 15 U.S.C. § 1681i(e)(3).

¹²³ See, e.g., Fed. Trade Comm’n., *supra* note 2 at 4 (“The program was intended to enable consumers to obtain a second review of their complaints when they remain dissatisfied after having completed the dispute process with the CRAs ...”).

¹²⁴ See Fed. Trade Comm’n., Annual Report (1998), https://www.ftc.gov/sites/default/files/documents/reports_annual/annual-report-1998/ar1998_o.pdf (“In fiscal year 1998, its first full fiscal year of operation, the Center answered approximately 116,500 consumer complaints and inquiries and added them to the Consumer Information System database. Overall, the database has grown to over 314,000 entries.”). The FTC now refers to *complaints* as *reports*.

¹²⁵ See Fed. Trade Comm’n., Consumer Sentinel Network, <https://www.ftc.gov/enforcement/consumer-sentinel-network>.

When the FTC delivered its 611(e) report to Congress in 2008, a report covering credit report complaints received from 2004 to 2007, it reported that the “Commission uses complaints for general monitoring of industry, enforcement target selection, and preliminary information that might, with further factual development, reveal or help prove a law violation.”¹²⁶ But complaints maintained in the database were not, as a matter of course, provided to regulated entities. Instead, Consumer Sentinel was a resource for law enforcement.

Following the passage of the FACT Act, the FTC’s new NCRA complaint referral program required significant divergence from the FTC’s existing complaints process.¹²⁷ Section 611(e) required the Commission to develop a process to identify relevant complaints from Consumer Sentinel—a labor intensive process—and then transmit those complaints to the NCRAs.¹²⁸ In order to put this new process into operation, the FTC entered into memorandums of understanding with the NCRAs and, over several iterations, standardized a new data collection.¹²⁹ The FTC also opted to limit the number of complaints for which they would require the NCRAs to provide reports.¹³⁰

The reports provided by the NCRAs to the FTC under this process provided limited summary information about the compliance reviews required by Section 611(e)(3)(A). But from 2004 to 2007, the reports revealed a high rate of consumers having items on their reports corrected. In more than 17,000 items disputed in complaints reviewed by the NCRAs, 10,600 were resolved as the consumer requested.¹³¹

Transfer from the FTC and the CFPB complaints program

On July 21, 2011, the Dodd-Frank Act transferred responsibility for compiling and transmitting covered complaints from the FTC to the CFPB. In September 2011, the FTC agreed to assist the CFPB by compiling complaints covered by 611(e) and sending them to CFPB until the CFPB could create and launch its own credit reporting complaint intake system. In October 2011, the CFPB began receiving the consumer complaints on a monthly basis from the FTC.

¹²⁶ Fed. Trade Comm’n., *supra* note 2 at 3.

¹²⁷ *Id.* at 1.

¹²⁸ *Id.* at 3.

¹²⁹ *Id.*

¹³⁰ *Id.* at 4.

¹³¹ *Id.* at 7.

In October 2012, the CFPB began accepting credit reporting complaints, including both covered complaints¹³² and complaints about other credit reporting issues. The CFPB's complaint process was developed to scale with increasing complaint volume. It emphasized web-based intake of complaints, facilitated easy transmission of complaints to covered entities, and easy return of complaint responses to the CFPB and consumers. Because this process closely resembles the requirements of 611(e), the CFPB's existing complaints process could fulfill 611(e)'s transmission and reporting requirements.

Initially, only covered complaints where the consumer could provide a dispute tracking number were transmitted to the NCRAs and required a response, but this requirement proved too stringent. Some consumers complained about difficulties they encountered when attempting to submit disputes to the NCRAs. Other consumers had previously submitted disputes but no longer were able to identify their tracking number. To remedy this constraint, the CFPB made the decision to accept all covered complaints and to ask consumers about prior attempts to correct their issues with the company.¹³³

This additional data collection from consumers allowed the NCRAs to identify covered complaints so that they could initiate the reviews required by 611(e)(3)(A). In their responses, NCRAs were also asked to identify those complaints where they had received a previous dispute about the items in the complaint.¹³⁴ This data on the consumers' prior disputes, along with structured information about a complaint's closure category (i.e., what actions the NCRAs took) and the company's narrative response to the consumer, allowed the CFPB to perform its analysis of complaints and, through its Consumer Response Annual Report, fulfill its requirement to provide information gathered under Section 611(e) to Congress.¹³⁵

¹³² See discussion *infra* Section 5.

¹³³ The online complaint form asks consumers, *Have you already tried to fix this problem with the company?* See discussion *supra* Section 2.3. Beginning in 2018, the CFPB added additional language to its website, encouraging consumers to attempt to resolve complaints with companies directly before submitting a complaint. See Consumer Fin. Prot. Bureau, *Consumer Financial Protection Bureau to Enhance Consumer Complaint Database* (Sep. 18, 2019), <https://www.consumerfinance.gov/about-us/newsroom/bureau-enhance-consumer-complaint-database/>.

¹³⁴ In 2017, the CFPB began asking the NCRAs to distinguish between prior disputes they received directly, and updates from furnishers received through e-OSCAR.

¹³⁵ See Consumer Fin. Prot. Bureau, *Consumer Response Annual Report* (Mar. 2014), https://files.consumerfinance.gov/f/201403_cfpb_consumer-response-annual-report-complaints.pdf; Consumer Response Annual Report (Mar. 2015), *supra* note 92; Consumer Response Annual Report (Mar. 2016), *supra* note 93; Consumer Response Annual Report (Mar. 2017), *supra* note 94; Consumer Response Annual Report (Mar. 2018), *supra* note 93; Consumer Response Annual Report (Mar. 2019), *supra* note 96; Consumer Response Annual Report (Mar. 2020), *supra* note 11; Consumer Response Annual Report (Mar. 2021), *supra* note 12.

In short, use of the CFPB's existing complaint process allowed the NCRAs and the CFPB to meet their 611(e) obligations without imposing the significant burden, to both the CFPB and NCRAs, of an additional complaint transmission process and separate data collection.

The use of the CFPB's complaint system to facilitate its obligations under Section 611(e) also provides several ancillary benefits:

- Information for complaints broken down by sub-issue, response time and by company response category, allowing comparison of covered complaints with other complaints
- The capability to perform keyword searches in CRA responses, complaint narratives, and attachments through search applications
- The ability to use consumer information to identify issues affecting specific sub-populations, such as servicemembers or older consumers
- The ability to ask follow-up questions to consumers and companies, using the secure complaint management system
- High quality, secure data management without the need to create an additional database
- Real-time, regular reports about the NCRAs' actions in response to complaints¹³⁶

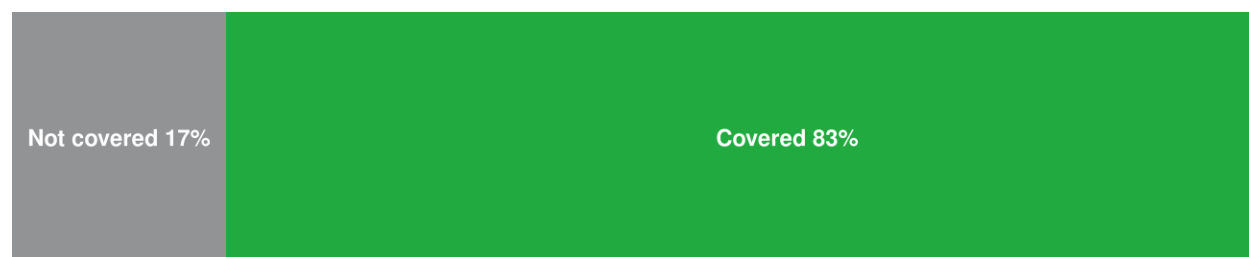
¹³⁶ See 15 U.S.C. § 1681i(3)(B) ("provide reports on a regular basis to the Bureau regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints").

5. NCRA complaint response analysis

As discussed in Section 4, FCRA Section 611(e)(3) directs a NCRA to review all complaints transmitted to it by the CFPB about incomplete or inaccurate information where a consumer appears to have previously disputed the information with the NCRA.¹³⁷ The CFPB has operationalized the 611(e)(3)(A) review requirement and the 611(e)(3)(B) reporting requirement for two issues—*Incorrect information on your report* and *Problem with a credit reporting company's investigation into an existing problem*—and where consumers indicated they previously attempted to fix the problem with the NCRA. The CFPB refers to this subset of complaints as *covered complaints* in this report.¹³⁸

Of the more than 760,000 complaints transmitted by the CFPB to the NCRA between 2018 and 2020, more than 83% were covered complaints (Figure 7). Most complaints indicate that the consumer attempted to previously resolve their issues prior to submitting a complaint. The remaining discussion and analysis in this report will focus on covered complaints.

FIGURE 7: PERCENT OF COVERED COMPLAINTS (THOSE REQUIRED TO BE TRANSMITTED TO THE NCRA AND RECEIVE 611(E) TREATMENT)



¹³⁷ 15 U.S.C. § 1681i(e)(3).

¹³⁸ See Terminology *supra* Section 1.

5.1 Previous dispute attempts

As part of the complaint process, the CFPB asks the NCRAs: *Does your company have a record of the consumer disputing this issue in the past?* This inquiry is important to the review required by 611(e)(3). To determine whether legal obligations have been met, as required by 611(e), the initial step of identifying past dispute submissions and associating those submissions with the consumer is critical.

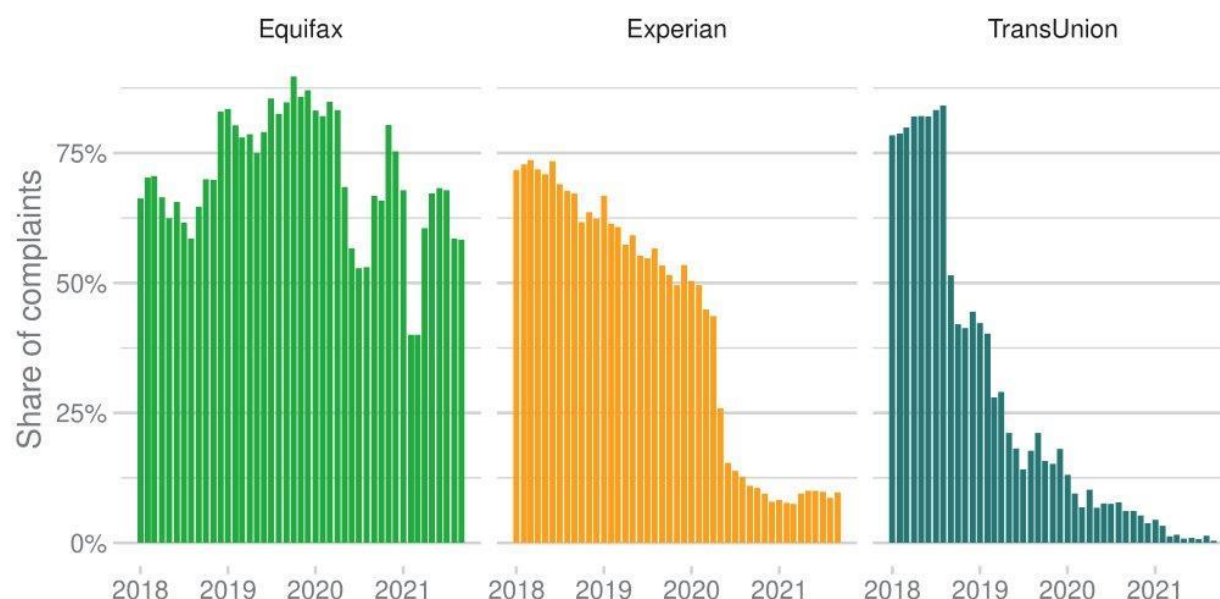
Table 2 lists (1) the counts of covered complaints and (2) the counts of those complaints in which the NCRA responded that it had a record of the consumer previously disputing by year. As covered complaint volumes have increased from 2018 to 2020, Equifax responded that it had a record of a prior dispute in an increasing number of those complaints. Experian responded that it had a record of a prior dispute in a relatively constant number of those complaints. TransUnion responded that it had a record of a prior dispute in a decreasing number of those complaints.

TABLE 2: COUNTS OF COVERED COMPLAINTS AND COUNTS OF COVERED COMPLAINTS IN WHICH THE NCRA RESPONDED ‘YES’ WHEN ASKED IF THE CONSUMER HAD PREVIOUSLY DISPUTED (IN THOUSANDS)

| | 2018 | | 2019 | | 2020 | |
|------------|--------------------|------------------------------|--------------------|------------------------------|--------------------|------------------------------|
| | Covered complaints | NCRA record of prior dispute | Covered complaints | NCRA record of prior dispute | Covered complaints | NCRA record of prior dispute |
| Equifax | 22.8 | 15.3 | 31.6 | 26.1 | 69.4 | 48.6 |
| Experian | 21.7 | 15.0 | 28.5 | 16.0 | 78.4 | 15.4 |
| TransUnion | 20.9 | 14.4 | 29.9 | 6.7 | 76.9 | 5.4 |

Figure 8 shows the rate at which companies selected “Yes” in response to this question, which has declined precipitously at Experian and TransUnion. Because more than 85% of covered complaints involve the same consumer submitting complaints about multiple NCRAs, these differences are not likely explained by the composition of consumers submitting complaints. Stated another way, it is unlikely these differences are caused by more consumers previously disputing with Equifax than TransUnion or Experian. Instead, these differences are likely caused by processes the NCRAs have instituted for responding to complaints. The CFPB believes that the data collected from the NCRAs in response to this question no longer accurately represents the share of consumers who have previously disputed with the NCRAs.

FIGURE 8: MONTHLY SHARE OF COMPLAINTS WHERE THE NCRA RESPONDED ‘YES’ WHEN ASKED IF THE CONSUMER HAD PREVIOUSLY DISPUTED



Another complicating factor in this analysis is the degree to which consumers have previously attempted but failed to submit a dispute with the NCRA. New or more stringent authentication or screening procedures at the NCRAs with regard to handling disputes sent via credit repair organizations or other third parties could result in a lower rate of consumers who have previously succeeded in filing a dispute, even where a similar number of consumers have previously attempted to dispute. It is possible that some portion of the divergent responses to the question of whether the consumer previously disputed are the result of these different rejection rates of disputes before the complaint process. But, given relatively even complaint volume between the NCRAs, this explanation likely does not explain it completely.

5.2 NCRAs' changes to complaint responses

In 2020, the NCRAs significantly changed the way they responded to complaints. This change preceded the bulk of the increase in complaint volume discussed in Section 3.1 and, subsequent to these changes, an increasing share of complaints submitted by consumers were not fully addressed by the NCRAs. Instead, around April 2020, approximately half of covered complaints received a response in which the NCRAs indicated a suspicion of third-party involvement and stated no further action would be taken. Another 30% of covered complaints received a response

where the NCRAs indicated the complaint will be handled as a dispute without additional detail. There are significant company-level differences, which are discussed below.

These complaint response changes are seemingly similar to the mail processing standards used by the NCRAs for handling disputes and described in several recent cases. For example, in one case, a NCRA's mail process is described as employees reviewing submissions for a variety of characteristics to determine whether it qualifies as "suspicious."¹³⁹ Similarly, NCRAs review complaints to determine if they meet the criteria of a credit repair organization.¹⁴⁰ These changes were initiated by the NCRAs without providing notice to the CFPB. In complaint data, these changes show up as few custom responses that are tailored to a consumer's complaint; instead, the NCRAs provide high-volume template (or form) company responses in which the CFPB and consumers often do not receive a substantive response to the complaint.¹⁴¹ Table 3 summarizes the types of high-volume company responses provided to the CFPB.

¹³⁹ See *Turner v. Experian Info. Sols., Inc.*, No. 3:16 CV 630, 2017 WL 2832738, at *1 (N.D. Ohio June 30, 2017), *aff'd*, No. 17-3795, 2018 WL 3648282 (6th Cir. Mar. 1, 2018).

¹⁴⁰ See description *infra* Table 3.

¹⁴¹ For the purposes of this report, the CFPB considered form responses to be those that are identical to other responses provided more than 5,000 times. Because there are a number of templates that have been used less frequently, the actual rate of complaints that receive non-specific responses is higher than what is reported in Table 3.

TABLE 3: TYPES OF COMPANY RESPONSES

| Type | Description | Example response language |
|---------------------------------------|---|--|
| Non-templated response | A response that does not use a high-volume template. This type includes lower volume templates and complaints in which the consumer received a custom response. | We initiated an investigation into the items and the results are below: We have researched the credit account. Account ##### The results are: This creditor has verified to [NCRA] that the current status is being reported correctly. This creditor has verified to [NCRA] that the prior paying history is being reported correctly. |
| Referred to dispute channel template | Complaint response indicates that complaint will be referred to dispute channel without additional detail. | After careful review, we have determined your complaint includes a dispute of information appearing on your credit report; therefore, we have forwarded your complaint to our consumer relations center for processing. You will receive your results within sixty (60) days from the date you submitted your complaint to the CFPB. |
| Request for more information template | Complaint response indicating there is a mismatch between information provided in the complaint and the information available in the consumer's file. | At this time, the information you have provided does not match our records. In order to proceed, we have mailed you a separate request for additional documents you may provide as documented proof by mail to confirm you are the rightful owner. |
| Third-party template | Complaint response indicating the NCRA suspects third-party involvement. | This complaint meets the criteria of a credit repair organization. It either has the same email address for multiple consumers, same naming convention or similar narrative in the attachment or it has the same and/or similar narratives as 20+ other complaints within a 45-day period. |

Of these, most common is the third-party template response. The third-party template sometimes describes, in general terms, the criteria used by the NCRAs to identify potential

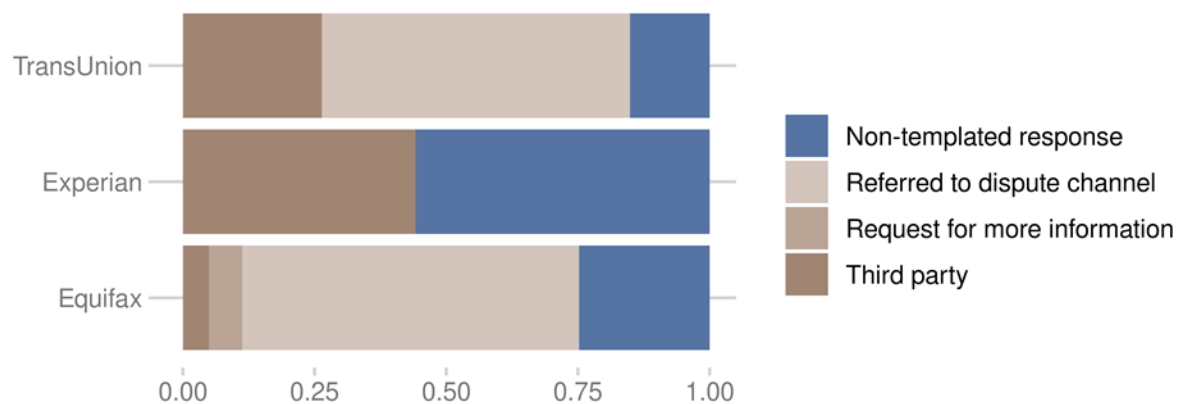
third-party involvement. The criteria described by all three NCRAs are quite similar. According to their complaint responses, the NCRAs generally look for one or more of the following:

- similar or identical language in complaint narratives;
- same naming convention or similar or identical language in the attachments;
- email address associated with multiple consumers; or
- certain uses of block requests under FCRA Section 605B (Block of information resulting from identity theft).

The template responses do not identify the specific criterion that applied to the complaint and some responses simply state that a submission was suspicious. The application of these criteria results in different outcomes for consumers across the NCRAs.

The CFPB monitors complaints to identify patterns in the sources of complaints. Figure 9 shows how each of the NCRAs responded to consumers' complaints from an identifiably unique source. Notably, the NCRAs arrive at markedly different conclusions. As shown in Figure 9, since March 2020, consumers largely have not received responses that address the issues described in their complaints and, instead, receive template responses. Overall, only a third of these identifiably unique consumers received a tailored complaint response that addressed the issues described in their complaints.

FIGURE 9: SHARE OF COMPLAINTS BY RESPONSE CATEGORY FOR COMPLAINTS FROM IDENTIFIABLY UNIQUE SOURCES SINCE MARCH 15, 2020



All three companies provided template responses to a large portion of complaints from unique sources. Experian, for example, provided a template response to nearly 44% of identifiably unique covered complaints.

Another large share of complaints receives responses indicating that the NCRA has forwarded the complaint to its dispute channel (Table 3, Referred to dispute channel template). Equifax and TransUnion use this template response, whereas Experian does not. Because Equifax and TransUnion close the complaint before the dispute investigation is complete and before the 60 days available to respond to a complaint, the outcomes of the dispute investigation are not made available to the CFPB through the complaint process. Thus, the CFPB is unable to determine whether the NCRA completed a reinvestigation or addressed the consumer's issue. It is also possible that many of these complaints later received a third-party screen, based on the screening procedures used by the NCRAs in their dispute channel.¹⁴²

The CFPB expects companies to provide complete, accurate, and timely responses to complaints, including complaints where the NCRAs have an obligation to do so under FCRA Section 611(e).¹⁴³ The information contained in the third-party template and the referred to dispute channel template does not meet these expectations.¹⁴⁴

Changes to the NCRAs' complaint responses occurred near in time

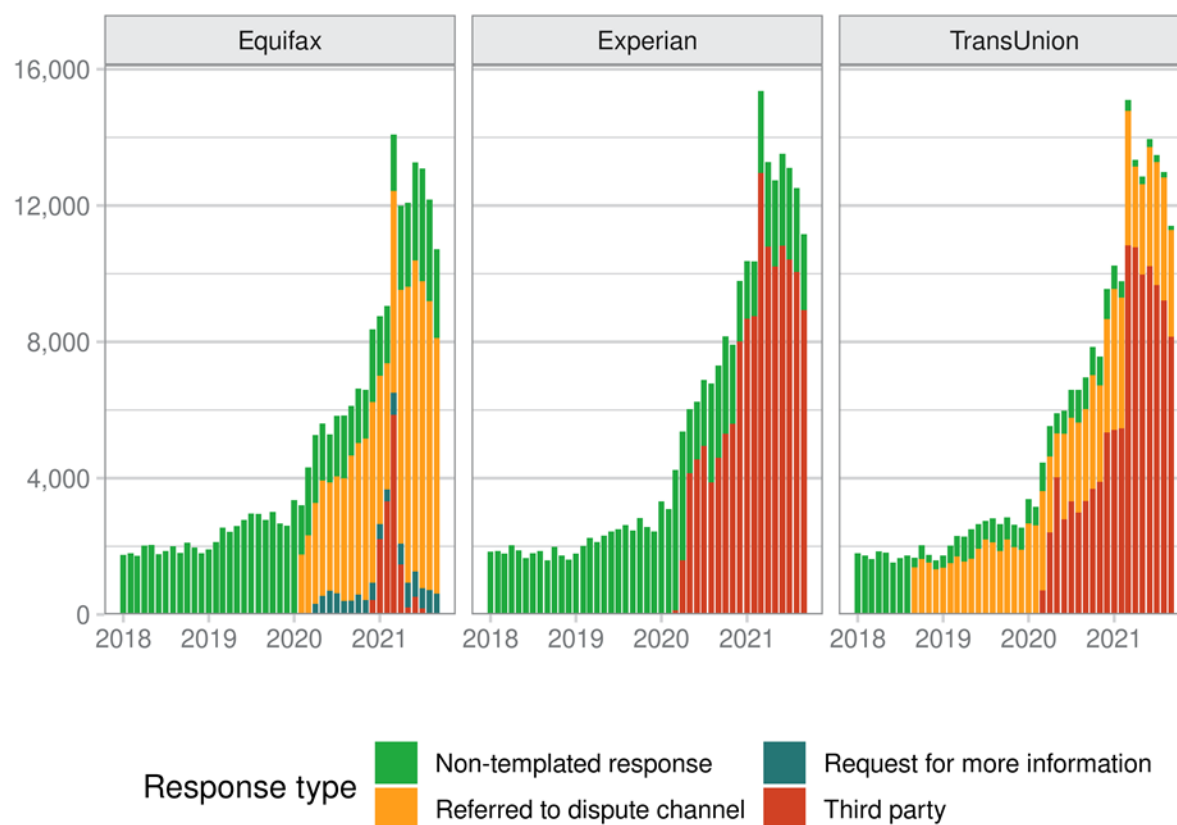
Figure 10 shows the NCRAs' use of these template responses. The timing of these changes is notable. While TransUnion began forwarding complaints to its dispute channel in 2018, all three NCRAs began making significant changes in April and May of 2020. Experian and TransUnion, for example, began frequently using third-party template responses. And Equifax began forwarding complaints to its dispute channel until it, too, began using third-party template responses in 2021. In all cases, the absolute volume of complaints that received a non-templated response declined.

¹⁴² See, e.g., *Turner v. Experian Info. Sols., Inc.*, *supra* note 139 (case describing screening procedures used by one of the NCRAs).

¹⁴³ See Consumer Response Annual Report (Mar. 2021), *supra* note 12 at 16.

¹⁴⁴ See CFPB complaint process *supra* Section 2.3.

FIGURE 10: MONTHLY VOLUME OF RESPONSES FROM THE NCRAS FOR EACH TYPE OF RESPONSE. DESCRIPTION OF THE RESPONSE TYPES IS PROVIDED IN THE TABLE ABOVE.

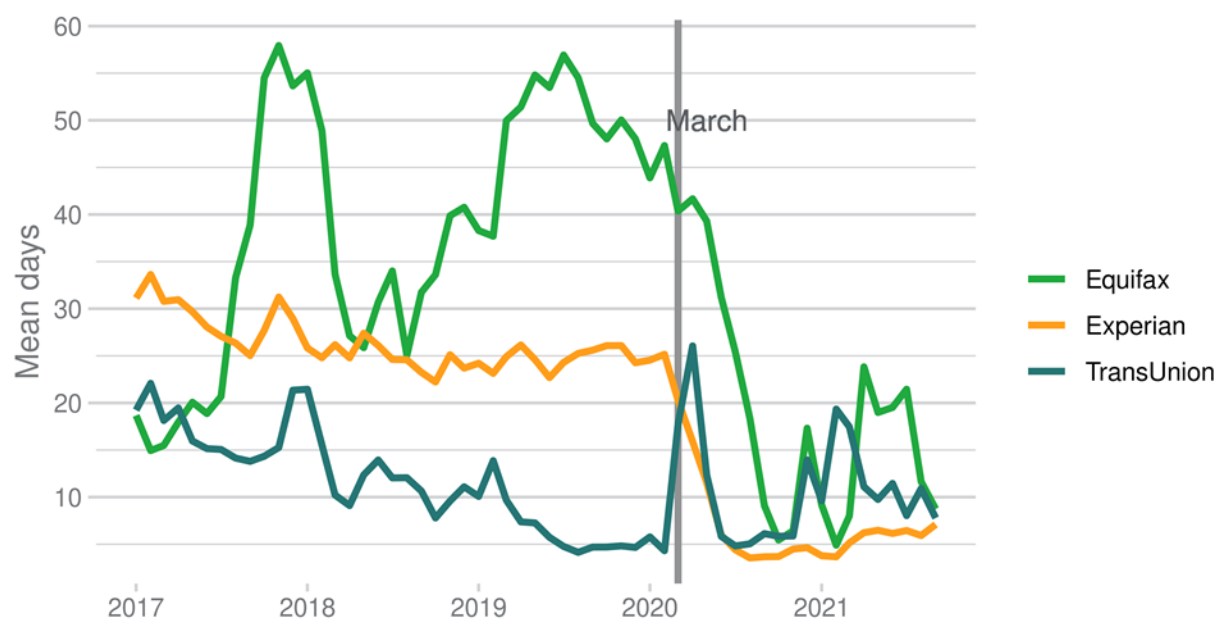


Response types for the NCRAs are determined by classifying the response language provided by the companies in their narrative responses to complaints.

The time NCRAs took to close complaints decreased significantly

The CFPB's complaint process requests that companies provide an interim response when a complaint cannot be closed within 15 calendar days and a final response within 60 calendar days. Before March 2020, Equifax and Experian took, on average, more than three weeks to close complaints. By mid-2020, however, all three NCRAs closed their complaints in fewer than 10 calendar days (Figure 11). Experian, in particular, closed complaints within just a few days. This decrease in processing time is consistent with the increased use of template responses.

FIGURE 11: MONTHLY MEAN NUMBER DAYS BETWEEN CONSUMER SUBMITTING COMPLAINT AND COMPANY PROVIDING A RESPONSE, 2017 TO 2021



Reference line provided for March 2020—the month the President declared a national emergency as a result of the coronavirus (COVID-19) pandemic.

Reports of relief provided by the NCRAs significantly decreased

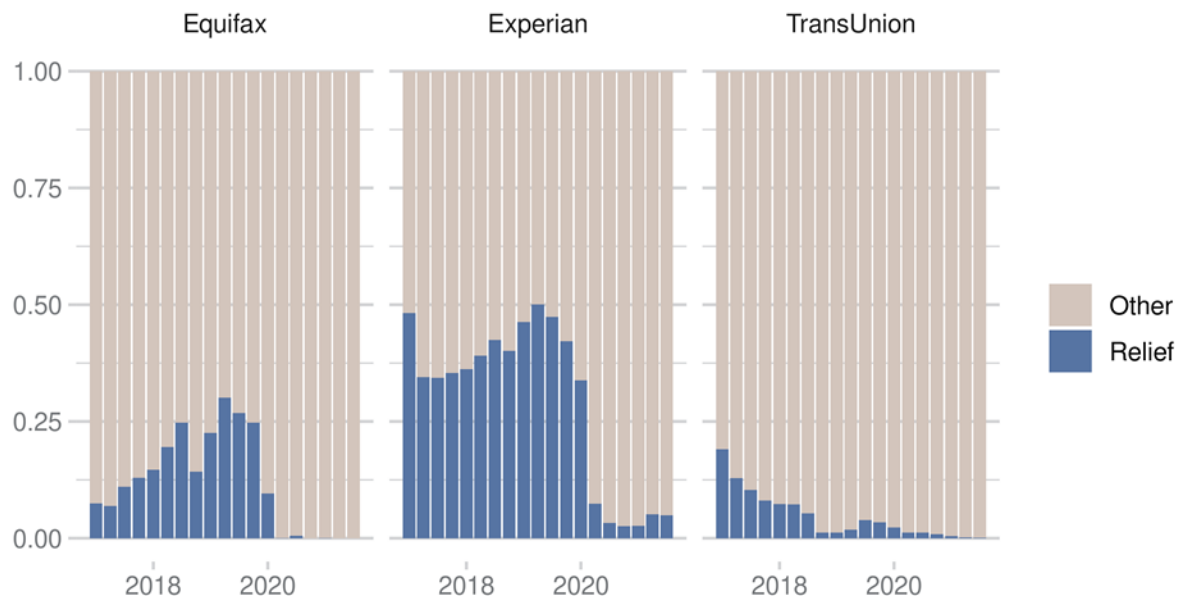
As discussed in Section 2.3, companies select a closure category that best describes their response. For example, correcting a consumer’s credit report in response to their complaint would be *Closed with non-monetary relief* because such an outcome provides objective relief to the consumer. Alternatively, a response stating that the trade line was reported as accurate would be *Closed with explanation* because no specific, verifiable monetary or non-monetary relief was provided to the consumer.

Historically, the CFPB has been able to analyze the outcomes of complaints—specifically, relief provided to consumers by the NCRAs. These “regular reports” about the actions taken in response to covered complaints provided the CFPB with important information that was annually shared with Congress.¹⁴⁵ Figure 12 illustrates how the recent changes in NCRA complaint response behavior affected the reporting of actions taken by the NCRAs. In 2021, the

¹⁴⁵ See 15 U.S.C. § 1681i(e)(5).

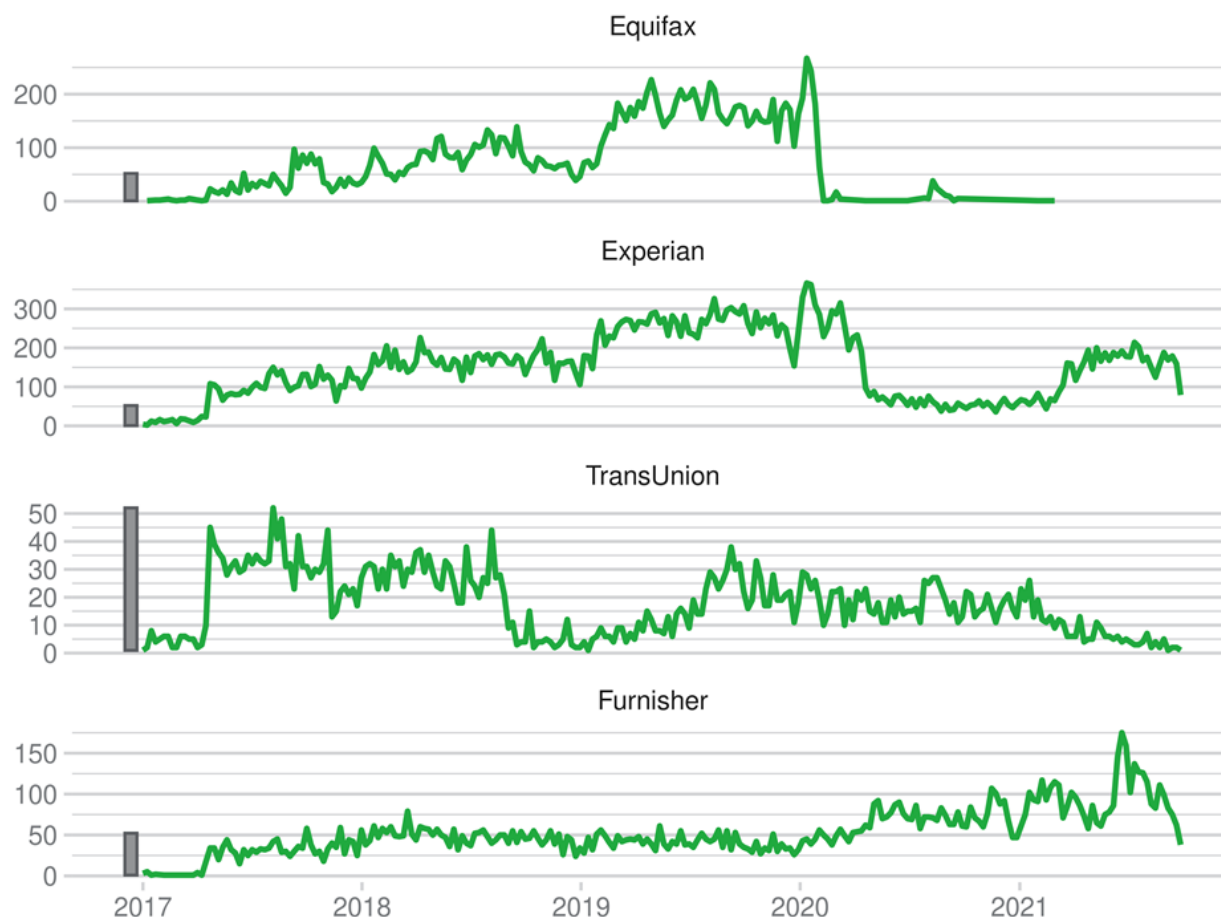
NCRAs reported relief in less than 2% of complaints down from nearly 25% of complaints in 2019.

FIGURE 12: QUARTERLY SHARE OF COVERED COMPLAINTS THAT HAVE RECEIVED RELIEF VERSUS OTHER RESPONSE TYPES FOR THE NCRAS 2017-2021



The absolute volume of reported relief has also declined precipitously (Figure 13). TransUnion, where process changes preceded those at the other two NCRAs, had further declines and now reports providing relief in response to fewer complaints each week despite increasing complaint volume (*compare* providing relief in more than 20 complaints per week in 2018 to less than 10 complaints per week in 2021). Equifax has not reported relief in response to any complaints for the past two quarters. Experian, which previously reported the highest volume of relief, now reports relief in fewer complaints. Relief provided in connection with credit or consumer reporting complaints directed to furnishers, which are not subject to FCRA Section 611(e) but experienced a similar trend in increasing complaint volume, is included as a reference to illustrate relief trends with respect to those companies over the same time period.

FIGURE 13: WEEKLY COUNT OF COMPLAINTS WITH RELIEF, BY DATE COMPANY RESPONDED



Relief rates fell overall. For Experian and Equifax, rates of relief dropped significantly over just a few weeks. Because the volume of relief provided by the NCRAs is significantly different, scales are not consistent among the charts. Comparison bars are provided to show relative size for easier comparison. Furnishing complaints are included as a reference; furnishing complaints were filtered using the same criteria as covered complaints (i.e., consumers (1) selected *Incorrect information on your report* and *Problem with a credit reporting company's investigation into an existing problem* and (2) indicated they previously attempted to fix the problem with the company).

6. Conclusion

The FCRA imposes obligations on certain complaints transmitted to the NCRAs by the CFPB. For years, the CFPB’s complaint process successfully transmitted complaints to the NCRAs, and they generally provided substantive responses that gave the CFPB insights into how they handled complaints. In 2020, Equifax, Experian, and TransUnion changed the way they respond to complaints.

At least one NCRA testified to Congress that it is responding completely and accurately to complaints transmitted by the CFPB.¹⁴⁶ The CFPB’s complaint analysis concludes otherwise.

In what has been a record period for credit or consumer reporting complaint volume, the CFPB’s analysis reveals that the NCRAs are closing complaints faster and with fewer instances of relief. The NCRAs discard most complaints based on unsubstantiated conclusions of suspected third-party involvement and on a flawed application of guidance that does not apply to CFPB complaints.

In their complaints to the CFPB, consumers describe the serious consequences that occur when inaccurate information is—and remains—on a consumer’s credit report. Consumers describe a system that is not working for them. Consumers express frustration about the time and energy they spend trying to correct information that may affect their ability to buy a home or obtain credit. Consumers sometimes describe how they plan on giving up on correcting their credit or paying debts that they do not owe just to make the problem go away.

The NCRAs’ actions, and inactions, have large implications for consumers’ financial well-being and the economy more broadly. The FCRA requires the NCRAs to conduct a review of certain complaints sent to them by the CFPB and to report their determinations and actions to the CFPB. The NCRAs’ responses to these complaints raise serious questions about whether they are unable—or unwilling—to comply with the law. The CFPB will use its authorities to meet its statutory objectives and to ensure that consumers receive quality responses to their complaints.

¹⁴⁶ See, e.g., House Hearing on Consumer Credit Reporting, *supra* note 4 (Testimony of Sandy Anderson, Experian, “We responded completely and accurately to all consumer complaints to the CFPB complaint portal.”).