Dēmos
IDEAS & ACTION

Comments to the Consumer Financial Protection Bureau Regarding Defining Larger Participants in Certain Markets for Consumer Financial Products and Services Markets [Docket N. CFPB-2012-0005] From Dēmos

Submitted April 16, 2012

Dēmos[1] welcomes the opportunity to submit comments to the Consumer Financial Protection Bureau's Notice and Request for Comment concerning the Bureau's definition of larger consumer reporting agencies (CRAs) that will be subject to the CFPB's supervision.

We strongly support supervision of the "big three" consumer reporting agencies and other CRAs encompassed by the CFPB's proposed threshold of $7 million in receipts. However, to effectively protect consumers from financial abuses, the CFPB should expand its definition of larger participants in the consumer reporting market.

We urge the CFPB to adopt a flexible, broad standard that can respond to changes in the marketplace and ensure that risky actors do not evade supervision. In particular, the CFPB should:

- **Expand the definition of "annual receipts" to include business revenues from the sale of consumer reports for any purpose, and supervise all aspects of firms' consumer reporting business.** Dēmos finds that data collected for consumer financial products is increasingly used for other purposes, including employment and residential tenancy.[2] Although the Dodd-Frank Wall Street Reform and Consumer Protection Act exempts consumer reporting entities that furnish information exclusively for these purposes from coverage, the reality is that in most CRAs these products and services are interrelated. In order to understand and prevent consumer abuses, the CFPB needs a complete understanding of the company's full operations.

[1] Dēmos is a non-partisan public policy research and advocacy organization founded in 2000. Headquartered in New York City, Demos works with advocates and policymakers around the country in pursuit of four overarching goals: a more equitable economy with widely shared prosperity and opportunity; a vibrant and inclusive democracy with high levels of voting and civic engagement; an empowered public sector that works for the common good;
and responsible U.S. engagement in an interdependent world.

[2] Shawn Fremstad and Amy Traub, "Discrediting America: The Urgent Need to Reform the Nation's Credit Reporting Industry," Dēmos, 2011. http://www.demos.org/publication/discrediting-america

MEDIA CONTACT
Communications Department
Lauren Strayer
lstrayer@demos.org
(212) 389-1413

- **Include the annual receipts of affiliates and companies that are under contract with another firm.** To prevent firms from circumventing CFPB supervision through contracting relationships that make each firms revenues appear to fall beneath the threshold for supervision, revenues of affiliates, agents, and contracted firms must be counted.

- **Consider a company's annual receipts relative to those of other market participants within a given geographic or product market or on a particular population, such as seniors or military families.** This expanded definition of annual receipts would ensure that CRAs that have a disproportionate impact in niche markets or communities would fall under the scope of CFPB supervision, enabling the bureau to protect diverse groups of consumers.

- **Treat companies as larger participants if they generate a volume of consumer complaints comparable to the larger participants defined by the "annual receipts" standard.** Using complaint measurements to define larger participants in addition to looking at a firm's annual receipts will ensure that the most abusive companies are subject to supervision. In this way, the risk of supervision will deter companies from engaging in abusive financial practices, decreasing the need for enforcement.

In defining the scope of its supervisory power, the CFPB has a unique opportunity to protect consumers and ensure a fair marketplace. This is particularly critical in the consumer reporting industry, where firms have not previously been subject to supervision or scrutiny. Indeed, consumer reporting can be seen as an exemplar of the rapidly changing consumer marketplace: credit reports and scores that were initially developed to evaluate the risks of lending to a particular consumer have been adapted for use in a wide range of other consumer contexts in which their predictive value is dubious or unclear. Landlords, insurance companies, public utilities, and even employers now use credit reports for decision-making with significant impacts on consumers' economic well-being.

At the same time nationwide specialty credit reporting companies are promoting a variety of consumer records, including information of dubious relevance such as gym membership and magazine subscription data, for lending and non-lending financial purposes with substantial potential impacts on consumers. A broad and flexible definition of supervisory power along the lines we recommend would ensure that consumers are shielded from a range of abusive practices by the credit reporting industry.

Dēmos appreciates the opportunity to comment on the rule defining larger non-bank participants.

Should you wish to discuss these issues further with our office, please contact:

Amy Traub,
Senior Policy Analyst, Economic Opportunity Program, Dēmos
220 Fifth Avenue, 2nd Floor New York, NY 10001
212.485.6008   atraub@demos.org