



## Legislative Update

### November 2014

#### In the United States Congress

##### Credit Repair Organizations Act

On Sept. 10, Representative Ed Royce (R-CA) introduced [H.R. 5446, the Facilitating Access to Credit Act](#). The bill would amend the Credit Repair Organizations Act (CROA) by exempting certain consumer reporting agencies (CRAs) from CROA's requirements. CROA's original purpose was to stop entities from making false claims that they can "fix your credit" by removing information from a consumer's credit history. H.R. 5446 would keep CROA's consumer protections but would allow CRAs defined under Sections 603(p) and (f) of the Fair Credit Reporting Act (FCRA) to work with consumers to help them understand their credit scores and to improve their financial health. TransUnion would be exempt from CROA under H.R. 5446. CROA's most significant barrier to helping consumers with credit education services is the requirement consumers wait three business days from when they sign up for services.

H.R. 5446 was referred to the House Financial Services for further consideration. Representative Ruben Hinojosa (D-TX) is an original co-sponsor. It is likely the Committee will not act on H.R. 5446 during the Congressional lame duck session. However, Reps. Royce and Hinojosa likely will reintroduce the proposal early in the new Congress convening in January.

#### Federal Regulatory Agency Activity

##### President Obama's Executive Order on Identity Theft and Secure Payment Cards

On Oct. 17, President Obama signed an [Executive Order](#) (EO) to facilitate faster migration to secure payment card technology. The EO also called on federal agencies (Department of Justice, Commerce Department, Social Security Administration and the Federal Trade Commission) to expand information sharing related to identity theft. Lastly, the EO directed the FTC to enhance its current identity theft [Web site](#) for consumers by May 15, 2015. The FTC is instructed to work with the national credit reporting bureaus "...to streamline the reporting and remediation with credit bureaus' systems to the extent feasible."

##### Consumer Financial Protection Bureau Forum on Checking Account Access

On Oct. 8, CFPB held a [public forum](#) in Washington DC on consumer access to checking accounts. The forum focused mostly on two consumer reporting agencies providing information to financial institutions (Fidelity National Information Services and Early Warning Services). However, CFPB Director Cordray's [opening statement](#) focused more on the banks' use of "credit reports" versus these specialty consumer reports. Banks may pull credit reports when opening

checking accounts for consumers (especially in cases when they wish to offer consumers overdraft protection). But, FIS and EWS are the prominent companies in this space. Cordray also expressed concerns with the “imperfections” and “inconsistencies” of data with these specialty consumer reporting agencies. CFPB’s next steps with respect to checking account opening procedures are uncertain, but it is expected to continue to study the issue.

### CFPB No-Action Letter Proposal

On Oct. 10, CFPB published a [proposal](#) for comment to assist companies who may be uncertain whether new products or services fit into existing consumer protection laws and regulations. CFPB referred to this safe harbor as a “No-Action Letter.” The proposed policy asks companies to outline the “substantial” consumer benefit of the product or service at issue as well the risks that may be involved. CFPB stated that No-Action Letters will have a limited time frame and they anticipated issuing them infrequently.

## In the State Legislatures and Agencies

### Illinois Ban the Box Law Effective Jan. 1

Illinois Governor Pat Quinn recently signed into law the [Job Opportunities for Qualified Applicants Act](#) (JOQAA). This “**Ban the Box**” law, which prohibits employers from including on job applications a box for applicants to check if they have ever been convicted of a crime. prohibits Illinois employers and employment agencies from inquiring into, considering, or requiring disclosure of a job applicant’s criminal record or criminal history until the applicant has been determined qualified for the position sought and notified that he/she has been selected for an interview, or if there is no interview, until after a conditional offer of employment is made. The law goes into effect January 1, 2015, and applies to all private sector employers that employ 15 or more employees in Illinois during the year in which the violation occurs or in the preceding year, and any responsible agents of such an employer, as well as all employment agencies in Illinois. The prohibition on premature inquiries about criminal convictions does not apply to positions where an employer is required to exclude applicants with certain convictions from employment due to federal or state law, and does prevent an employer from notifying applicants in writing of the specific offenses that will disqualify an applicant from employment in a particular position due to federal or state law or the employer’s policy. The JOQAA will be enforced by the Illinois Department of Labor.

### California Breach Notice Law and Credit Monitoring

On Sept. 30 California Governor Jerry Brown signed into law [AB 1710](#), amending the state’s security breach notification law. The law requires, with respect to the information required to be included in the notification sent to consumers affected by a breach, that if the person or business providing the notification was the source of the breach, that the person or business offer to provide appropriate identity theft prevention and mitigation services, if any, to the affected person at no cost for not less than 12 months if the breach exposed or may have exposed specified personal information. Data Breach Services from TransUnion can help companies doing business in California to prepare for a possible data breach and preserve customer confidence in accordance with California’s new law. Proactive Data Breach Services help businesses prepare for a breach by having customer communications and credit-monitoring activation codes ready to distribute, and in the event that a data breach has already occurred, Response Data Breach Services provides a fast and efficient means to inform affected customers. For further information

on these services, please contact [databreach@transunion.com](mailto:databreach@transunion.com) or call 800-719-1636. More information can be found on TransUnion's website by visiting <http://partnershipprogram.transunion.com/breach.html>

### California Foster Kids and Credit Report Bill Enacted

On Sept. 29 Governor Brown also signed into law [AB 1658](#), sponsored by Assemblyman Reggie Jones-Sawyer (D-59). Effective Jan. 1, 2015, the law, which in its original form would have forced new security freeze procedures for kids in foster care, now requires state foster care agencies to comply with existing federal law, the Child and Family Services Improvement and Innovation Act of 2011. This requires that each child in foster care under the responsibility of the state who has attained 16 years of age receive without cost a copy of any consumer report pertaining to the child each year until the child is discharged from care, and assistance in interpreting and resolving any inaccuracies in the report.

### New York Regulator Pushes Banks to Stop Online Leaks by Third-Party Providers

Following the recent security breaches by financial institutions, the New York State Department of Financial Services superintendent Benjamin Lawsky is pushing financial institutions and brokerage houses to close glaring gaps in cybersecurity. In a letter sent to many banks last week, Supt. Lawsky expressed concern about the "level of insight financial institutions have into the sufficiency of cybersecurity controls of their third-party service providers." Mr. Lawsky has requested banks to disclose "any policies and procedures governing relationships with third-party service providers." Supt. Lawsky said that banks must provide "any due diligence processes used to evaluate" the adequacy of security procedures of third-party service providers. He has asked financial institutions to outline all methods of protection used to safeguard sensitive data that is sent to, received from, or accessible to vendors.

### Pennsylvania Security Freeze Bill Advances

On Oct. 7 [HB 1982](#), sponsored by Rep. Stephen Barrar (R-160), unanimously passed the Pennsylvania House of Representatives. It removes the requirement that security freezes automatically expire seven years after initial placement of the freeze by the consumer. We expect this to pass the Senate.

### New York Security Freeze Bill Awaiting Governor Signature

Despite passing the legislature back in June, companion bills [SB 6682](#) and [AB 8955](#) were finally delivered to last week to Governor Cuomo. As previously reported, the bills would allow New York residents to request security freezes for minors and protected persons. We expect the Governor to sign the bills, and they will take effect Jan. 1, 2015.

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