

Prepared Remarks of CFPB Director Richard Cordray at Forum on Access to Checking Accounts

BY RICHARD CORDRAY

Thank you for joining our forum to explore how consumers are affected by checking account screening policies and practices. Today we will look at how these practices work and raise questions about whether they unfairly block some consumers from opening checking accounts, while exposing other consumers to inappropriate risk. We look forward to a fruitful discussion that advances our understanding of these issues.

Checking accounts are an important part of a consumer's financial life. They are used by some 200 million Americans, making them one of our most widely used financial products. They function as a basic tool for money management that provides a secure way for consumers to collect earnings, make payments, and transfer and hold funds. People often use them to pay their bills and receive their wages, which is essential to financial viability and economic mobility. Each year, millions of Americans open new checking accounts. They do so for many reasons, such as entering the banking system for the first time, finding a more attractive product or service, or moving to a new part of the country.

When consumers go to a bank or credit union to set up a checking account, they have to provide certain information. In that process, they get screened for different kinds of risk. One risk is whether they have engaged in any fraudulent or illegal conduct, such as money laundering. But banks and credit unions also screen consumers to determine if they pose a credit risk. Now, this might seem counter-intuitive. After all, consumers are opening up a checking account to deposit money and spend it later, none of which would seem to pose any credit risk. But most banks and credit unions also have overdraft policies that allow consumers to have negative balances. So the screening system is used to determine how likely it is that the consumer will incur overdrafts and pay them back.

In their screening for risk, banks and credit unions often rely on reports from consumer reporting agencies. Although many people think that there are only three national credit reporting companies, in fact there are many more specialty consumer reporting agencies that also operate nationwide. They primarily collect and provide specific types of information on a consumer's history, such as medical payments, tenancy, employment, or insurance claims.

A specialty consumer reporting agency associated with checking account screening, in particular, would have a database of information on involuntary closures of checking accounts, check writing, and checking account history. The reports sold to banks and credit unions can make the difference between a consumer being approved or rejected for a checking account.

Obviously, then, these reports and the related screening processes of banks and credit unions can greatly affect how consumers are treated, which is why we are here today. The Consumer Bureau has three areas of concern. First, we are concerned about the information accuracy of these reports. Second, we are concerned about people's ability to access these reports and dispute any incorrect information they may find. Third, we are concerned about the ways in which these reports are being used. Let me address each of these issues more specifically.

First, as these reports play an increasingly important role in people's lives, we are concerned about the type and accuracy of the information found in them. The specialty consumer reporting agencies typically generate reports focused on information that is primarily derogatory about a consumer. This includes charge-off amounts, past non-sufficient funds activity, unpaid or outstanding bounced checks, overdrafts, involuntary account closures, and fraud.

We are concerned about whether this information contains too many imperfections and inconsistencies. For example, we know that institutions vary in their abilities to conduct the careful investigations needed to differentiate between accountholders who perpetrate fraud versus those who are victims of fraud. In addition, we believe the definitions used to report an involuntary account closure may vary industry-wide on some central points, such as how long a negative balance may go unpaid before it is charged off and the account is closed and reported to the consumer reporting agency. Some institutions may close accounts after money is owed for 30 days; others may not close accounts until money is owed for 120 days. Institutions also vary in how they report account closures to the consumer reporting agencies. Some may report all charge-offs, some may set a threshold of \$50 or \$100. Timing of reports can also vary, with some reporting more quickly and others more slowly.

Differences can occur on other material points as well. Some banks or credit unions separate out the principal and fees when they report overdue debts; others do not. Some update their reports daily and others monthly. Sometimes charged-off balances are sold as debts or assigned to collectors. And, significantly, depending on how careful and conscientious a bank or credit union may be in passing information along, the quality of its policies and procedures can profoundly affect the accuracy of screening decisions for consumers.

Credit reporting agencies have an obligation to have procedures in place for "maximum possible accuracy." In the face of these challenges, we are interested in understanding what procedures they follow, and what alternatives are possible. We are also interested in learning how improvements in the way information is furnished to specialty consumer reporting agencies and processed and reported by such agencies for checking account screening can ensure greater consistency and quality in these consumer reports. This in turn would result in better and more informed screening decisions that are fairer to consumers.

We also will be exploring whether better data might enable a financial institution to make more nuanced decisions in account screening rather than simply reaching a binary "yes or no" result. This kind of assessment might provide greater access to the banking system, as we will discuss a bit later.

Second, we are concerned about whether consumers are able to readily to access their reports, and whether they are able to get inaccuracies fixed. We are also concerned that most consumers are unaware of how this screening system affects their ability to access a checking account.

A consumer who had an account closed and goes to open a new account at another institution may be utterly unaware of how his or her application will be judged. A financial institution's qualification process is likely quite opaque. At the Consumer Bureau, we believe it is important for consumers to know why they are turned away. Federal law entitles each of us to know when a consumer report was used to take adverse action against us and to obtain a free copy of information contained in that report from the consumer reporting agency that provided it. In addition, nationwide specialty consumer reporting agencies, including those serving the checking account market, have an obligation under the law to disclose to us a free copy of our file annually upon our request. In November 2012, the Bureau issued a bulletin reminding these specialty consumer reporting agencies of this obligation. We continue to work to make sure consumers know when they have the right to obtain these reports and can exercise this right easily.

When consumers discover inaccuracies, it is important that they have an effective avenue of appeal available for them to challenge those inaccuracies. Federal law entitles them to dispute what they think is wrong and get a prompt resolution of the issue. If consumers cannot take steps to ensure that information about their account history is accurate, they will be unjustly hindered from re-entering or participating effectively in the banking system. That is a concern for us.

We therefore want to explore how consumers are getting information about their right to obtain copies of their reports from specialty consumer reporting agencies and to what extent they are exercising those rights. We likewise want to better understand how consumers are obtaining information about their right to dispute information in those reports and the exercise of those dispute rights as well.

Third, we are concerned about how these reports are being used. It is one thing to use a credit report or similar type of consumer report as a means of assuring that consumers do not take on more risk than they can handle. Indeed, the Bureau would be concerned if banks or credit unions were to grant credit to consumers without regard to their prior credit history – as we expressed in the “ability to repay” rule we adopted in the mortgage context. For most consumers, though, checking accounts are not inherently credit vehicles, but instead are products for depositing and transferring funds. So it is troubling then that banks or credit unions may use a credit report to exclude some consumers from these basic financial services.

For consumers who lose their account privileges and are put out of the banking system, they are forced to rely on other ways to manage their financial lives. These alternative financial services, such as check cashing and money orders, often are less convenient, more costly, and have fewer consumer protections. The same is true for consumers who live entirely in a cash economy. The loss of the safer banking product can have serious consequences for consumers' ability to succeed in managing their financial affairs. One interesting area of innovation involves technology that may lead to improved, low-cost transaction accounts, which do not include any overdraft or other credit feature, and which are accessed either through traditional branch networks, or through alternative channels. As these innovations evolve they may change the dynamic considerably, especially if we can ensure the same kind of robust consumer protections that the law imposes on checking accounts offered by banks and credit unions.

For these reasons, this last question is an interesting and important one. We are especially interested to learn more about how the screening system could be used to help institutions better meet the needs of these consumers, rather than simply excluding them from the banking system altogether.

So we are here today to learn more about screening practices for checking accounts and the information they rest on. We will consider how to balance the needs of banks and credit unions with the needs of consumers for access and protection. We are seeking, in particular, to explore ways that account screening can move beyond the use of specialized consumer reports as crude “black lists” where consumers are turned down for an account simply because their name appears on the list.

We envision a process that better understands consumers’ needs and can provide an account that is appropriate to their personal circumstances. Among the questions we will be asking are: How can the screening process be improved to identify consumers who could or should be given second chances at checking accounts? Can checking accounts products be made available to consumers more broadly that minimize risk, thus making screening less important? What improvements can be made to the way information is provided to the specialty credit reporting agencies and is processed and reported by those agencies? And what role can government regulators play in fostering a market that provides appropriate products for all kinds of consumers?

The Consumer Bureau has the authority to supervise the larger depository institutions and the larger consumer reporting agencies for compliance with federal consumer financial protection laws. We are the first federal agency to be in a position to engage directly with both sets of these important industry participants. We have already released several reports on the credit reporting system, including one of the most in-depth looks at it to date. As I mentioned, we have also issued a warning to some specialty reporting companies that federal law requires them to provide consumers with access to their reports. And we issued a consumer advisory informing people that they have a right to obtain their reports from the nationwide specialty consumer reporting companies for free each year. We will continue to research and monitor this market carefully.

In the end, consumers need access to accounts that allow them to move their money around securely and efficiently, giving them control over their financial well-being without exposing them to unwanted or unforeseen risks. The information used to determine their eligibility for an account needs to be accurate so that the account screening process does not unfairly restrict their access to the banking system. We need to move from screening processes designed to make banks safe from consumers to ones designed to make them safe for consumers. Thank you.

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