FCRA RULEMAKING:
A PATH TO REINING IN DATA BROKERS

The Consumer Financial Protection Bureau (CFPB) has kicked off a process to update Fair Credit Reporting Act rules and cut off harmful data broker practices.

SUMMARY

The Fair Credit Reporting Act (FCRA) is a federal law that promotes accuracy, fairness, and privacy in the collection and retention of personal information by consumer reporting agencies (CRAs). The CFPB will soon propose new rules clarifying that many data brokers are credit reporting agencies regulated by the Act.

HOW DATA BROKERS HURT CONSUMERS

Data brokers collect and use **millions of data points** about consumers to **predict and influence consumer behavior**, combining personal data with other datasets, mining that data for insights (often using AI), and selling personal data to third parties.

Consumers can **suffer privacy, economic, and reputational harms**, as well as **severe anxiety**, when data collected by a broker is sold, disclosed, or subject to a breach.

Further, using certain kinds of data to make determinations regarding eligibility for **credit, employment, or housing** can **exacerbate existing inequalities and perpetuate racial bias.**

As data brokers profit off the intimate details of consumers' lives, consumers have **little transparency into how their information is being collected, used, and shared**, while the brokers themselves **operate largely with impunity**.

THE CFPB IS WEIGHING NEW RULES TO CUT OFF HARMFUL DATA BROKER PRACTICES

Proposals under consideration at the CFPB include:

- Making clear that many data brokers are credit reporting agencies subject to the Fair Credit Reporting Act based on the types of personal data they sell and the purposes for which that data is sold or used;
- Ensuring that data brokers covered by the Act adhere to accuracy, transparency, privacy, and fairness requirements;
- Preventing data brokers from buying or selling certain types of personal data outside of the narrow purposes permitted by the Act;
- Reinforcing restrictions on certain types of "credit header" data—including names, addresses, phone numbers, and Social Security numbers—that some have claimed aren't covered by the Act; and
- Stopping data brokers from exploiting loopholes to sell personal data to third parties for targeted advertising and marketing.

The CFPB's Fair Credit Reporting Act rulemaking process would help to ensure that the law works to protect consumers in the modern technological landscape.

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