TransUnion

<u>Filed via Rules Coordinator Online Platform</u>

August 6, 2021

Rules Coordinator
Office of the Washington Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504

Re: *CR-101, WSR 21-13-131, dated June 22, 2021, and first stakeholder draft for R2021-07, dated July 13, 2021 - temporary prohibition on use of credit history on some personal lines*

To: The Washington Office of the Insurance Commissioner

TransUnion welcomes the opportunity to provide comments to the Washington Department of Insurance's CR-101 and first stakeholder draft for R2021-07. As a global information and insights company, we recognize our central role in the various markets in which we operate and we take seriously the accompanying responsibilities to accurately and fairly represent consumers. TransUnion is an industry-leading provider of credit-based insurance scores that use individual-level credit data to help insurers manage against financial loss and consumers access optimally priced insurance products. Reliable data stewardship – and the overall quality and integrity of our solutions – is a necessary precondition to carrying out our mission of using Information for Good.

For more than two decades, TransUnion has been at the forefront of using credit data to help insurers assess risk and price coverage more accurately for personal automobile and property insurance policies. Credit-based insurance scores provide a scalable, objective and actuarially sound tool, which helps insurers compete nationally and in previously underserved areas. Finally, they lower competitive barriers, which lessen industry costs and, in turn, lead to greater access and more choice for consumers. Numerous independent studies have shown that credit-based insurance scores can help lower premiums for consumers. [1]

This submission addresses three critical topics:

I) The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") has provided consumers appropriate credit reporting flexibility while maintaining systemic data integrity;
II) Credit-based insurance scores remained stable throughout the pandemic; and,
III) Credit-based insurance scores facilitate objective and actuarially sound insurance decisions and greater accessibility for consumers.

I. The CARES Act has provided consumers appropriate accommodations resulting in the preservation of credit reporting data integrity

Under the CARES Act (Section 4021) consumers in good standing experiencing a financial hardship may enter into a payment accommodation with their lender and be reported as "current" to the credit bureaus.[2] A CARES Act payment accommodation includes any payment assistance or relief granted to a consumer affected by the COVID-19 pandemic. Such accommodations include any type of forbearance or payment suspension, agreement

[1] "Available evidence indicates that the information that credit-reporting agencies maintain on the credit-related experiences of consumers, and the credit history scoring models derived from these experiences, have substantially improved the overall quality of credit decisions and have reduced the costs of such decision-making." *Credit Reporting Accuracy and Access to Credit,* Federal Reserve Bulletin, Summer 2004*, 320; See also,* An Overview of Consumer Data and Consumer Reporting, Federal Reserve Bulletin*, Feb. 2003, 70 (citations omitted); See also* "[C]redit information saves consumers anywhere from 30 percent to 59 percent on their car insurance (with some carriers providing up to 80 percent of their policyholders with a discount)," *Insurance scoring saves consumers money*, Am. Property Casualty Ins. Assn., 2019, http://www.pciaa.net/docs/default-source/default-document-library/insurance_scoring_overview.pdf?sfvrsn=2 (citations omitted).; *See also* Lars Powell, PhD, *Risk-Based Pricing of Property and Liability Insurance*, Journal of Insurance Regulation 2020 v.1, https://content.naic.org/sites/default/files/jir-za-39-04-el-risk-based-pricing.pdf.

[2] Pub. L. 116-136, 134 Stat. 281 (2020).

to make partial payments, forbearance of delinquent amounts, or modifications of loans or contracts to provide borrowers temporary loan relief due to COVID-19.

The CARES Act was designed to provide relief and payment flexibility to consumers experiencing a COVID-19 related hardship while maintaining the integrity of consumer credit data. TransUnion believes that consumer credit reporting has not been disrupted by CARES Act accommodations and TransUnion's consumer reporting database contains accurate information on consumers.

Among the justifications identified in the CR-101 for the proposed rule, the Commissioner states the following:

- The result of the CARES Act is that all credit bureaus are collecting a credit history that is objectively inaccurate for some consumers and therefore results in an unreliable credit score being assigned to them.
- The Commissioner finds that the current protections to consumer credit history at the state and federal level have disrupted the credit reporting process. This disruption has caused credit-based insurance scoring models to be unreliable and therefore inaccurate when applied to produce a premium amount for an insurance consumer in Washington state.
- When the CARES Act fully expires, a large volume of negative credit corrections will flood consumer credit histories. This flood of negative credit history has not been accounted for in the current credit scoring process.

TransUnion categorically disagrees with the Commissioner's abovementioned assertions and we find that the proposed rulemaking is not supported by evidence. There is, however, ample evidence demonstrating that the CARES Act is working to accommodate consumers and preserve the well-functioning of credit reporting. The CARES Act and subsequent implementing guidance were designed to: (1) protect consumers by maintaining a consumer's account status when a consumer experienced a COVID-19 related hardship; (2) maintain the integrity of credit data by reflecting a consumer's credit history without unduly punishing them for a COVID-19 related financial hardship; and (3) prevent a "flood of credit corrections" after expiration of an accommodation.

Providing consumers in financial hardship credit reporting accommodations is not a new practice. During COVID-19, data furnishers leveraged long-standing accommodation practices to provide relief to consumers facing financial hardship from events, such as catastrophic weather events and other declared emergencies. The presence of COVID-19 related payment accommodations in the consumer reporting database does not invalidate TransUnion's credit data or our solutions derivative of this data, such as credit-based insurance scores, because they were developed on data sets already containing consumers with payment accommodations. TransUnion's CreditVision Auto and TrueRisk Property 2020 score stability and improvement trends for accounts with and without accommodations demonstrates the continued validity of our credit-based insurance scores.[3]

As TransUnion's internal analysis shows in Figure 1, 10 million U.S. consumers had at least one non-student loan COVID-19 payment accommodation on file as of April 2021, which is down from a peak of 21 million in June 2020. In eight of the last 12 months, accommodation removals have been greater than newly reported accommodations, with 82% of accommodations having been removed from consumers' accounts as of April 2021. The information in the Figure demonstrates the CARES Act is working and many consumers are getting back on their feet financially. Additionally, a majority of consumers enrolled in payment accommodation programs continue to make payments on their loans. On June 23, 2021, TransUnion reported that, seven in 10 non-prime[4] consumers and eight in 10 prime and above consumers made payments on accounts with an accommodation while they were enrolled in such programs.[5]

[3] *Infra.* Figure 2: CreditVision Auto monthly median score – Consumers with and without accommodation and Figure 3: TrueRisk Property monthly median score – Consumers with and without Accommodation.

[4] *VantageScore 4.0 risk ranges: non-prime = 300-660; prime and above = 661-850

[5] Press release, TransUnion LLC, Majority of Consumers in Accommodation Programs Continued to Make Payments: TransUnion research finds many consumers benefitted from leveraging financial hardship programs, (June 23, 2021), https://newsroom.transuion.com/majority-of-consumers-in-accommodation-programs-continued-to-make-payments/.

Figure 1: Reporting of Accommodations – Consumer Level (excluding student loans)

The consumer protections of the CARES Act continue to apply after an accommodation ends. In June 2020, the Consumer Financial Protection Bureau published CARES Act consumer reporting guidance, outlining post-accommodation protections. The guidance specified that a consumer who had a "current" account status when an accommodation was entered cannot be reported as delinquent based upon the accommodation-covered period once the accommodation ends, assuming payments were not required, or the consumer met any payment requirements of the accommodation. Additionally, the accommodation-covered period cannot be used to advance, or accelerate, a delinquency once the accommodation ends. [6]

II. Credit-based insurance scores remained stable throughout the pandemic

Despite the economic hardship faced by many consumers, TransUnion's credit-based insurance scores remained stable for accounts with and without accommodations. TransUnion's CreditVision Auto and TrueRisk Property products exemplify this stability. Figures 2 and 3 compare the 2020 monthly median scores by score model for consumers with and without accommodations. Not only did data show score stability, but it also showed moderate improvements throughout 2020. While each score uses different attributes and weights, stability and improvement is driven by, among other factors, a decrease in credit utilization, a decline in delinquencies, and an increase in credit tenure from an aging population and decline in new account openings. Score stability and improvement trends for accounts with and without accommodations demonstrate that CARES Act accommodations reporting is effective in maintaining credit data integrity. It also demonstrates that CARES Act accommodations do not make existing credit-based insurance scores unreliable.

[6] 15 U.S.C. § 1681s-2; Consumer Financial Protection Bureau, *Consumer Reporting FAQs Related to the CARES Act and COVID-19 Pandemic* (June 16, 2020), available at https://files.consumerfinance.gov/f/documents/cfpb_fcra_consumer_reporting_faqs_covid-19_2020-06.pdf.

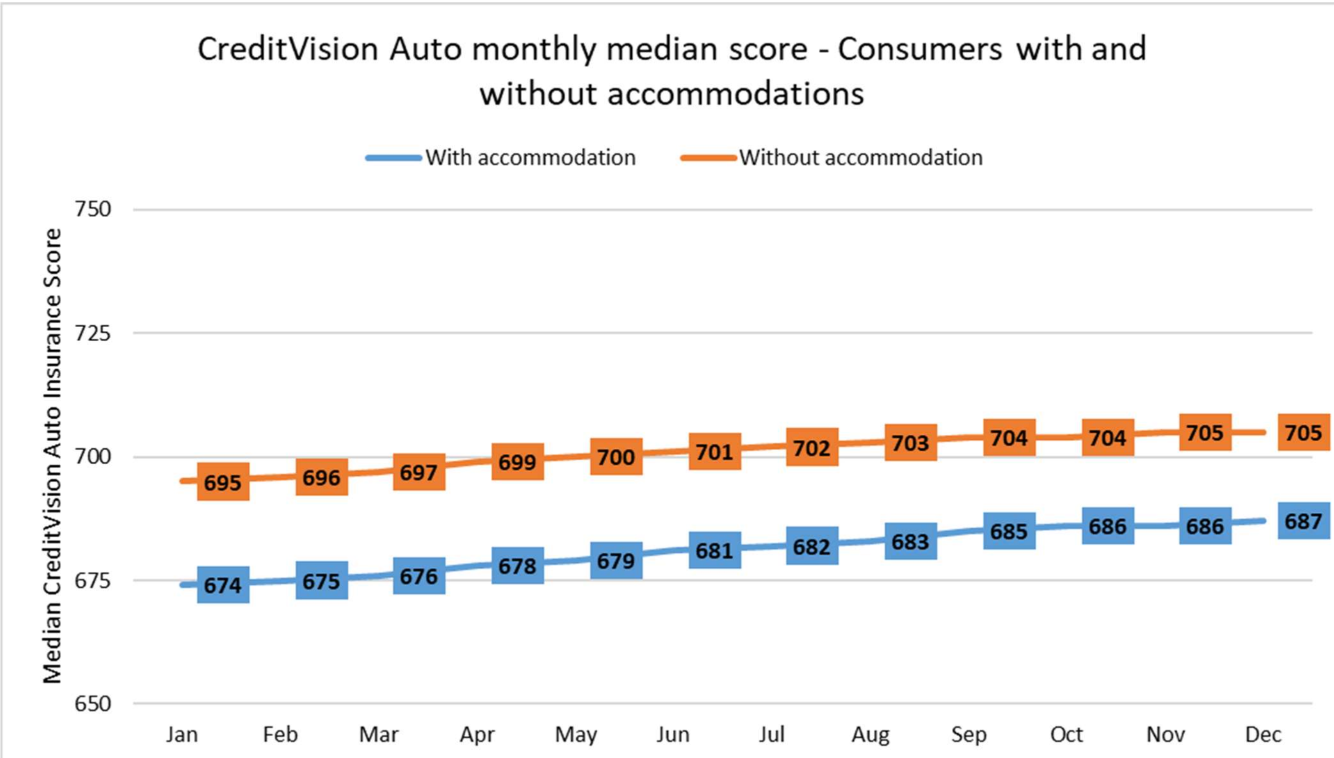

Figure 2: CreditVision Auto monthly median score – Consumers with and without accommodation

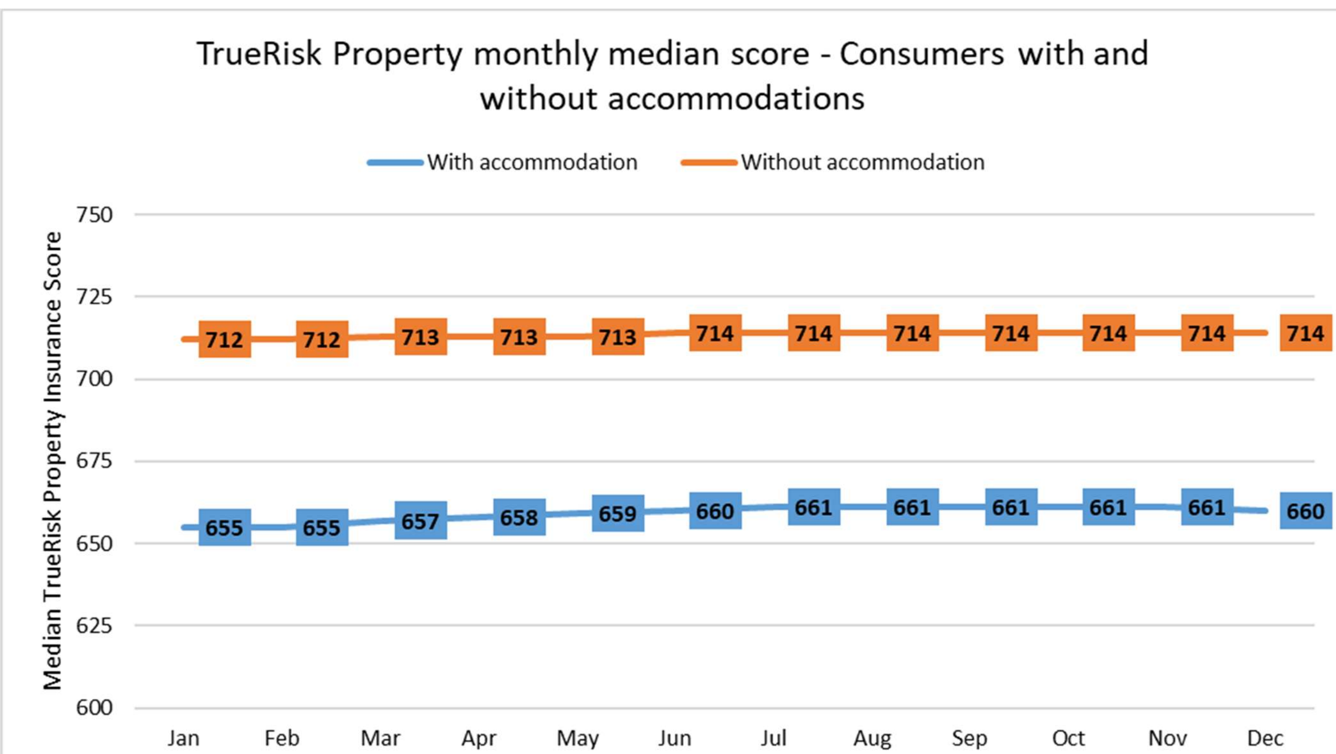

Figure 3: TrueRisk Property monthly median score – Consumers with and without accommodation

Importantly, since payment accommodations are a regular occurrence in consumer credit reporting, as explained previously, the data sets used to develop these credit-based insurance scores included consumers with payment accommodations. Thus, the presence of CARES Act payment accommodations in the current consumer reporting database base do not invalidate these credit-based insurance scores as it has not done so in the history of accommodation reporting generally.

III. Credit-based insurance scores facilitate objective and actuarially sound insurance decisions and greater accessibility for consumers

Credit-based insurance scores have provided a scalable, objective and actuarially sound tool, helping insurers compete nationally and in previously underserved areas for more than two decades. Prohibiting the use of credit-based insurance scores will result in a greater financial burden for many Washington consumers due to:

- Increased premiums for consumers with above-average credit-based insurance scores, as insurers apply a neutral rating factor to all credit-based insurance score risk classes;
- Additional premium disruption for many consumers as insurers adjust their multi-variate rating plans to re-fit other variables for the removal of credit-based insurance scores; and,
- The elimination of one of a few mechanisms, payment accommodations, that consumers have during financial hardship to seek relief and control their insurance expenditures.

* * *

Prohibiting the use of credit-based insurance scores will result in premium disruption, increasing the financial burden for many Washington consumers, and will remove one of the few mechanisms consumers have during a financial hardship to seek relief and control their insurance expenditures. TransUnion urges the Commissioner to withdraw the proposal and end the current emergency order prohibiting the use of credit-based insurance scores. To help consumers, beyond the relief already provided in the CARES Act, Washington legislators should instead consider adopting an extraordinary life circumstances law where insurers are required to provide insurance score rating exceptions to consumers experiencing a wide variety of circumstances such as loss of employment, death of a spouse, divorce, and other specific circumstances.[7]

TransUnion looks forward to working with the Office of the Insurance Commissioner to help consumers continue to access optimally priced insurance products. If you have any questions, please contact Anne Skallerup, Director, Government Relations, at Anne.Skallerup@transunion.com.

Sincerely,

Stothard Deal

Stothard Deal
Vice President, TransUnion Insurance Solutions

[7] The National Council of Insurance Legislators Model Act Regarding Use of Credit Info. in Pers. Ins. (amended 2009, re-adopted 2020), adopted fully or partially by 29 states, includes an extraordinary life circumstances provision. http://ncoil.org/wp-content/uploads/2020/10/Credit-Model-readopted-9-26-20.pdf and https://ncoil.org/wp-content/uploads/2016/04/2007203b.pdf.