

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 100975 / September 9, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22084

In the Matter of

TransUnion,

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against TransUnion.

II.

In anticipation of the institution of these proceedings, TransUnion has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, TransUnion consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and TransUnion’s Offer, the Commission finds that:

Respondent

1. **TransUnion**, a Delaware corporation based in Chicago, Illinois, is a provider of consumer credit reporting services that also develops and markets various credit services and

fraud-protection products. TransUnion operates through various subsidiaries, including Trans Union LLC (collectively, “TransUnion” or “Respondent”). The common stock of TransUnion is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is listed on the New York Stock Exchange under the ticker “TRU.”

Facts

A. Statutory and Regulatory Framework Protecting Whistleblowers

2. The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”), enacted on July 21, 2010, amended the Exchange Act by adding Section 21F, “Whistleblower Incentives and Protection.” The congressional purpose underlying these provisions was “to encourage whistleblowers to report possible violations of the securities laws by providing financial incentives, prohibiting employment-related retaliation, and providing various confidentiality guarantees.” *See Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934*, Release No. 34-64545, at p. 197 (Aug. 12, 2011).

3. Congress explicitly noted the importance of providing financial incentives to promote whistleblowing to the Commission as it determined that “a critical component of the Whistleblower Program is the minimum payout that any individual could look towards in determining whether to take the enormous risk of blowing the whistle in calling attention to fraud.” *See The Restoring American Financial Stability Act of 2010*, Committee on Banking, Housing, and Urban Affairs (Apr. 30, 2010).

4. To fulfill this congressional purpose, the Commission adopted Rule 21F-17, which provides in relevant part:

- (a) No person may take any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation, including enforcing, or threatening to enforce, a confidentiality agreement . . . with respect to such communications.

Rule 21F-17 became effective on August 12, 2011.

B. TransUnion’s Severance, General Release, Transaction Incentive, and Consulting Agreements

5. As a regular part of its business, TransUnion enters into severance agreements and general release agreements with certain senior employees. These agreements document the rights and responsibilities of TransUnion and the employee following the end of the employment relationship.

6. From time to time, TransUnion enters into transaction incentive agreements with certain senior employees. These agreements provide financial incentives to employees following a business transaction affecting their employment.

7. As a regular part of its business, TransUnion enters into consulting agreements with individual independent contractors. These agreements define the rights and responsibilities of the individual contractor during their working relationship with TransUnion and after their departure.

8. Between May 8, 2019, and September 22, 2023, TransUnion entered into twenty-nine agreements that required senior employees to waive their right to recover a monetary award for participating in an investigation by a government agency. Although these agreements expressly permitted participation in government whistleblower programs, they also required senior employees to waive their right to a potential award. These included general release agreements that contained award-waiver provisions, as well as severance agreements and transaction incentive agreements that required senior employees to execute a separate agreement containing an award-waiver provision following the end of their employment with TransUnion. These agreements stated:

I agree that I am waiving all rights to sue or obtain equitable, remedial or punitive relief from any or all Released Parties of any kind whatsoever (including, without limitation, reinstatement, back pay, front pay, attorneys' fees and any form of injunctive relief). Notwithstanding the above, I further acknowledge that I am not waiving and am not being required to waive any right that cannot be waived under law (including, without limitation, the right to file an administrative charge or participate in an administrative investigation or proceeding); **provided that I disclaim and waive any right to share or participate in any monetary award resulting from the prosecution of such charge or investigation or proceeding.**

(Emphasis added.)

9. Between August 24, 2022, and September 6, 2023, TransUnion entered into three consulting agreements that prohibited individual contractors from voluntarily providing information about TransUnion's business operations to government agencies and required that these contractors notify TransUnion of any legally compelled disclosure of such information. These agreements stated:

Consultant shall hold in confidence and shall not copy, publish, disseminate or otherwise use any confidential information it receives from [TransUnion] and/or any [TransUnion] Affiliate (as defined below in Section 13.3) by virtue of this Contract including but not limited to any such information Consultant received prior to the commencement of this Contract; provided however, that Consultant may use (but not copy, publish, disseminate nor use for any other purpose) any such confidential information solely to the extent necessary for Consultant's performance under this Contract. **Such obligations of confidentiality shall not apply to information** (a) which Consultant can demonstrate, by its written records, was already in the possession of Consultant prior to the first date of disclosure by [TransUnion] and/or a [TransUnion] Affiliate; (b) which is now or becomes publicly known through no fault of Consultant; (c) which Consultant rightfully

receives from third parties; (d) which by [TransUnion's written authorization is approved for use or release by Consultant; or (e) **which is required by law (i.e., an order of a court or data request from an administrative or governmental agency with competent jurisdiction) to be disclosed; provided however, that Consultant shall provide [TransUnion] at least ten (10) days prior written notice before the disclosure of such information pursuant to this Subparagraph (e).**

(Emphasis added.)

10. Although the Commission is unaware of any instances in which TransUnion took action to enforce these provisions or in which the affected individuals declined to speak with the Commission staff about potential violations of securities laws, these provisions created impediments to participation in the Commission's whistleblower program by requiring individuals to forego either their right to file a complaint with the Commission staff or the financial award they might receive for doing so.

11. Through the conduct described above, TransUnion violated Exchange Act Rule 21F-17(a), which prohibits any person from taking any action to impede an individual from communicating directly with the Commission staff about a possible securities law violation.

Remedial Actions and Cooperation

12. After being contacted by the Commission staff in connection with this matter, TransUnion revised its internal agreement templates, adding language affirmatively advising employees and contractors that they are not prohibited from disclosing information to any governmental or regulatory authority, or collecting any related incentive awards. TransUnion also used reasonable efforts to notify the affected employees and contractors that their agreements do not in any way limit their ability to contact the Commission staff or to obtain an award in connection with information they provide.

13. In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by TransUnion and cooperation afforded to the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in TransUnion's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, TransUnion cease and desist from committing or causing any violations and any future violations of Exchange Act Rule 21F-17(a).

B. TransUnion shall, within ten days of the entry of this order, pay a civil money penalty in the amount of \$312,000 to the Securities and Exchange Commission for transfer to the

general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying TransUnion as a respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Nicholas P. Heinke, Associate Regional Director, Division of Enforcement, United States Securities and Exchange Commission, 1961 Stout Street, Suite 1700, Denver, CO 80294.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within thirty days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed

in this proceeding. For purposes of this paragraph, a “Related Investor Action” means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary