



Fair Credit Reporting Act and Disputes Manual

Summary

The Fair Credit Reporting Act (FCRA) sets standards for Credit Reporting Agencies, financial institutions and persons related to the use and reporting on consumer credit reports. The FCRA governs the collection, assembly, and use of consumer report information and provides the framework for the credit reporting system in the United States. The FCRA was enacted to: prevent the misuse of consumer information by limiting recipients to those who have a legitimate business need for it; improve the accuracy and integrity of consumer credit reports; and promote the efficiency of use of credit reports.

The FCRA is primarily implemented by the Consumer Financial Protections Bureau under Regulation V (12 CFR Part 1022), with the exception of rules governing the proper disposal of consumer report information and the requirements that financial institutions maintain a program to detect and address the “red flags” of identity theft.

Definitions

Consumer Report: A written, oral or other report by a credit reporting agency about a person’s creditworthiness, standing, capacity, character, general reputation, personal characteristics, or mode of living. However, this does not include:

- A report containing information only on the transactions or experiences between the consumer and the person making the report;
- The sharing of experiences between affiliates;
- Communication of other information among persons related by common ownership or by corporate control if it is clearly disclosed to the consumer that the information may be shared by affiliates and the consumer is given the opportunity to opt out before the time the information is shared;
- Authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card;
- A report in which a person who has been requested by a third party to extend credit directly or indirectly to a consumer conveys his decision with respect to the request, provided the third party advises the consumer of the name and address of the person requesting the report and the required disclosures are given; and
- An investigative consumer report for a prospective employer that has been previously authorized by the consumer.

Consumer Reporting Agency: Anyone who regularly engages in assembling or evaluating consumer credit or other information to furnish consumer reports to third parties. CRAs are required to:

- Purge obsolete information;
- Stop reporting negative credit information after 7 years; and

- Stop reporting bankruptcies after 10 years unless the information is related to credit or insurance of \$150,000 or more.

Duties of Users of Consumer Reports and Furnishers of Consumer Report Information

The FCRA contains many responsibilities for persons, such as financial institutions, that furnish information to consumer reporting agencies. These requirements generally involve ensuring the accuracy and integrity of the data that is placed in the consumer reporting system. The following are key definitions:

Accuracy: The information a financial institution provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

- Reflects the terms of and liability for the account or other relationship;
- Reflects the consumer's performance and other conduct with respect to the account or other relationship; and
- Identifies the appropriate consumer.

Direct dispute: A dispute submitted by a consumer directly to a financial institution (including a financial institution that is a debt collector) concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the financial institution has or had with the consumer.

Furnisher: An entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

- Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with a permissible purpose;
- Is acting as a "consumer reporting agency";
- Is a consumer to whom the furnished information pertains; or
- Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

Integrity: The information a financial institution provides to a consumer reporting agency about an account or other relationship with the consumer:

- Is substantiated by the financial institution's records at the time it is furnished;
- Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and
- Includes the information in the financial institution's possession about the account or other relationship that:
 - The relevant Agency has determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and
 - Is specified in the Interagency Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies (FCRA rule, Appendix E). Currently, the Guidelines specify the credit limit, if applicable and in the financial institution's possession.

Duties of Furnishers to Provide Accurate Information

The FCRA prohibits financial institutions from providing information to a CRA that they know or have reasonable cause to believe is inaccurate. However, the financial institution is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the financial institution that certain information is inaccurate.

A financial institution is required to establish and implement reasonable written policies and procedures to ensure the “accuracy” and “integrity” of information that it furnishes to credit bureaus. The regulations include guidelines for developing these policies and procedures. The regulations also identify the circumstances under which a financial institution must investigate disputes about the accuracy of information contained in a credit report based on a direct request from a consumer.

When developing policies and procedures, the following guidance should be considered:

- Establishing and implementing a system for furnishing information that is appropriate to the nature, size, complexity, and scope of the operations;
- Using standard data reporting formats and standard procedures for compiling and furnishing data to CRAs;
- Maintaining records for a reasonable period of time (not less than any applicable recordkeeping requirement) in order to substantiate the accuracy of any information it furnishes that is subject to a direct dispute;
- Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies;
- Training staff that participates in activities related to the furnishing of information to CRAs to implement the policies and procedures;
- Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information furnished to CRAs;
- Furnishing information to CRAs following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished;
- Deleting, updating, and correcting information in the financial institution’s records, as appropriate, to avoid furnishing inaccurate information;
- Conducting reasonable investigations of disputes;
- Designing technological and other means of communication with CRAs to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to CRAs; and
- Providing CRAs with sufficient identifying information to enable the consumer reporting agency properly to identify the consumer.

Duties after Notice of Dispute from Consumer Reporting Agency

If a financial institution receives a notice from a CRA that a consumer disputes the completeness or accuracy of information provided by the financial institution, the financial institution must have policies and procedures in place to investigate. Those procedures should include:

- Investigate and review all relevant information provided by the CRA, including information given to the CRA by the consumer;
- Report the results to the CRA that referred the dispute, and, if the investigation establishes that the information was, in fact, incomplete or inaccurate, report the results to all CRAs to which the financial institution provided the information that compile and maintain files on a nationwide basis;
- Complete the investigation within 30 days from the date the CRA receives the dispute
 - 45 days if the consumer later provides relevant additional information to the CRA;
- Promptly modify or delete the information or block its reporting.

Duties Upon Notice of Dispute from a Consumer (Direct Disputes)

There is a general rule in the FCRA that requires a financial institution to conduct a reasonable investigation of a direct dispute unless an exceptions applies (which will be described in detail in the next section) As defined earlier, a direct dispute relates to:

- The consumer's liability for a credit account or other debt with the financial institution, such as direct disputes relating to:
 - Whether there is or has been identity theft or fraud against the consumer;
 - Whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;
- The terms of a credit account or other debt with the financial institution, such as:
 - Direct disputes relating to:
 - Account type;
 - Principal balance;
 - Scheduled payment amount on an account; or
 - Amount of the credit limit on an open-end account.
- The consumer's performance or other conduct concerning an account or other relationship with the financial institution such as direct disputes relating to:
 - Current payment status;
 - High balance;
 - Payment date;
 - Payment amount; or

- Account open or closed date.
- Any other information contained in a consumer report regarding an account or other relationship with the financial institution that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Exceptions

The FCRA contains several exceptions that apply to the general rule that a financial institution must conduct a reasonable investigation. Those exceptions apply to a financial institution if the direct dispute relates to:

- The consumer's identifying information
 - Name(s);
 - Date of birth;
 - Social Security number;
 - Telephone number(s); or
 - Address(es).
- The identity of past or present employers;
- Inquiries or requests for a consumer report;
- Information derived from public records
 - Judgments;
 - Bankruptcies;
 - Liens; and
 - Other legal matters (unless the information was provided by a financial institution with an account or other relationship with the consumer).
- Information related to fraud alerts or active duty alerts; or
- Information provided to a consumer reporting agency by another financial institution.

There are additional exceptions that eliminate the general rule requirement to investigate if a financial institution has a reasonable belief that the direct dispute is:

- Submitted by a credit repair organization;
- Prepared on behalf of the consumer by a credit repair organization; or
- Submitted on a form supplied to the consumer by a credit repair organization.

Direct Disputes Address

A financial institution is required to investigate a direct dispute only if a consumer submits a dispute notice to the financial institution at:

- The address provided by a financial institution and listed on a consumer report relating to the consumer;

- An address clearly and conspicuously specified by the financial institution that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the financial institution); or
- Any business address of the financial institution if the financial institution has not provided a specific address for submitting direct disputes.

It is a common industry practice to take advantage of the opportunity to provide such an address. However, from a customer service perspective, it is important to remain aware of any correspondence from a customer and act as the financial institution deems appropriate. Failure to act may result in additional repercussions, such as formal complaints submitted by the aggrieved party.

Direct Disputes Notice Content

When a consumer submits a dispute to the financial institution, it must include the following:

- Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer;
- Specific information that the consumer is disputing and an explanation of the basis for the dispute; and
- All supporting documentation or other information reasonably required by the financial institution to substantiate the basis of the dispute. This documentation may include:
 - A copy of the relevant portion of the consumer report that contains the allegedly inaccurate information;
 - A police report;
 - A fraud or identity theft affidavit;
 - A court order; or
 - Account statements.

Direct Disputes Duties

The FCRA contains requirements for when a consumer submits a dispute directly to the financial institution (with certain exceptions) based on information the financial institution provided to the consumer reporting agency.

Similar to when a financial institution receives a dispute directly from a CRA, its required to investigate a direct dispute (assuming it submits a valid dispute at the address provided by the financial institution) if it relates to credit accounts or debts with the financial institution. The process should include the following:

- Conduct a reasonable investigation with respect to the disputed information;
- Review all relevant information provided by the consumer with the dispute notice;
- Complete its investigation of the dispute and report the results of the investigation to the consumer within 30 days from the date the financial institution receives the dispute:
 - 45 days if the consumer later provides relevant additional information to the financial institution; and

- If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the financial institution provided inaccurate information of investigation findings and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the financial institution accurate.

Remember, a financial institution is not required to investigate a direct dispute if the financial institution has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

- The consumer did not provide sufficient information to investigate the disputed information;
- The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer and the dispute is one with respect to which the financial institution has already complied with the statutory or regulatory requirements.
 - However, a direct dispute would not be “substantially the same” as the one previously submitted if the dispute includes new information required by the regulation to be provided to the financial institution, but that had not previously been provided to the financial institution; or
- The financial institution is not required to investigate the direct dispute because one or more of the exceptions applies.

Upon making a determination that a dispute is frivolous or irrelevant, the financial institution must notify the consumer of the determination not later than five business days after making the determination, by mail or electronically, if authorized by the consumer for that purpose. The financial institution’s notice that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information. The notice may consist of a standardized form describing the general nature of such information.

FCRA Disputes FAQs

FAQ 1: What is your financial institution's responsibility when providing information to the consumer reporting agencies?

FAQ 2: Please list examples from the Interagency Guideline relating to what qualifies as reasonable written policies and procedures?

FAQ 3: Why is it important to provide consumers with an address to submit a formal dispute regarding information in a consumer report?

FAQ 4: How long does a financial institution have to complete and report on a direct dispute (assuming it meets the FCRA and financial institutions requirements and no exceptions exist)?

FAQ 5: Please list examples of exceptions to the requirement to investigate a dispute?

FCRA Disputes FAQs Answers

FAQ 1

The FCRA requires furnishers (such as the financial institution) of information to the consumer reporting agencies to report that information correctly. The responsibilities of the financial institution include:

- Duty to provide accurate information;
- Correct and update information as needed;
- Investigate disputes regarding the accuracy of the information being reported;
- Report results of an investigation to the consumer and consumer reporting agency as applicable.

FAQ 2

The Interagency guidance provides a number of ideas for a financial institution to consider when establishing its policy and procedures relating to the FCRA. Those best practices include:

- Establishing and implementing a system for furnishing information that is appropriate to the nature, size, complexity, and scope of the operations;
- Using standard data reporting formats and standard procedures for compiling and furnishing data to CRAs;
- Maintaining records for a reasonable period of time (not less than any applicable recordkeeping requirement) in order to substantiate the accuracy of any information it furnishes that is subject to a direct dispute;
- Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies;
- Training staff that participates in activities related to the furnishing of information to CRAs to implement the policies and procedures;
- Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information furnished to CRAs;
- Furnishing information to CRAs following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished;
- Deleting, updating, and correcting information in the financial institution's records, as appropriate, to avoid furnishing inaccurate information;
- Conducting reasonable investigations of disputes;
- Designing technological and other means of communication with CRAs to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to CRAs; and
- Providing CRAs with sufficient identifying information to enable the consumer reporting agency properly to identify the consumer.

FAQ 3

The FCRA prohibits information furnishers from providing information to a CRA that they know or have reasonable cause to believe is inaccurate. However, the furnisher is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the furnisher that certain information may be inaccurate.

Further, an address will potentially reduce the regulatory burden for conducting an investigation as a financial institution is only required to investigate a direct dispute if submitted through the proper channel (the address) if disclosed properly to its customers. Many times, this information is provided with account opening disclosures, posted on the financial institution's website, and/or included with periodic statements

FAQ 4

Financial institutions generally have 30 days from the date the financial institution receives the direct dispute notice. The financial institution is required to conduct a reasonable investigation and report the results to the consumer during that timeframe. The FCRA does allow for a 15-day extension if the consumer provides relevant additional information for review and consideration.

It is important to remember that if the investigation finds that the information in the report was inaccurate, the financial institution must correct the inaccurate information and provide accurate information to the consumer reporting agencies which previously received the inaccurate information.

FAQ 5

The FCRA includes exceptions to the general rule requiring a financial institution to investigate an alleged dispute. The following exceptions apply if they relate to:

- The consumer's identifying information such as name(s), date of birth, Social Security number, telephone number(s), or address(es);
- The identity of past or present employers;
- Inquiries or requests for a consumer report;
- Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless the information was provided by a furnisher with an account or other relationship with the consumer);
- Information related to fraud alerts or active duty alerts; or
- Information provided to a consumer reporting agency by another furnisher.

Further, a financial institution will not have to investigate a dispute if it reasonably believes the dispute is:

- Submitted by a credit repair organization;
- Prepared on behalf of the consumer by a credit repair organization; or
- Submitted on a form supplied to the consumer by a credit repair organization.