

U B A F a l l C o m p l i a n c e C o n f e r e n c e

Fair Credit Reporting Act Disputes

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Agenda

- Fair Credit Report Act / Regulation V
- General Terms and Definitions
- FCRA Duties
- Disputes

Fair Credit Reporting Act

- Establishes the framework for the credit reporting system
 - Prevent the misuse of consumer information
 - Limit recipients to those who have a legitimate need for it
 - Improve the accuracy and integrity of consumer reports
 - Promote the efficiency of credit reporting system

Regulation V

- FCRA is primarily implemented by the CFPB's Regulation V
 - Except - Section 615(e) – red flag guidelines and regulation and Section 628 – disposal of records
 - Not all FCRA provisions have implementing regulations
- Responsibilities
 - Consumer Reporting Agencies (CRAs)
 - Banks
 - Users of consumer reports
 - Furnishers of information to CRAs

Key Definitions

- **Consumer report**

- Any written, oral, or other communication of any information by a CRA bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility:
 - Credit or insurance to be used primarily for personal, family, or household purposes
 - Employment purposes
 - Any other purpose authorized under section 604 of the FCRA (“permissible purposes”)

Key Definitions (2)

- Consumer reporting agency
 - Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports
 - Big three (3)
 - Equifax
 - TransUnion
 - Experian

Furnishers of Consumer Information

- Responsibilities on all persons who furnish information to CRAs
 - Provide accurate information
 - Correct and update information
 - Investigate disputes and correct inaccurate information
 - Notify consumers when reporting negative information to CRAs
 - Certain specific duties related to the occurrence of identity theft

Duty to Provide Accurate Information

- Prohibits information furnishers from providing information to a CRA that they know or have reasonable cause to believe is inaccurate
- 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 is inaccurate
 - May not furnish information to a CRA
 - Consumer notification, at the specified address, that the information is inaccurate
 - Information is inaccurate
- Determines that information is not complete or accurate
 - Promptly notify the CRA of that determination
 - Provide corrections to that information or any additional information necessary to make the information complete and accurate
 - Furnish any information that remains incomplete or inaccurate
- Consumer disputes the completeness or accuracy of any information
 - May not furnish the information to any CRA without notice that the consumer disputes the information

Accuracy Definition

- Information that a furnisher provides to a CRA about an account or other relationship with the consumer is correct
 - Reflect the terms of and liability for the account or other relationship
 - Reflect the consumer's performance and other conduct with respect to the account or other relationship
 - Identify the appropriate consumer

Integrity Definition

- Information that a furnisher provides to a CRA about an account or other relationship with the consumer
 - Reflect the furnisher's records at the time it is furnished
 - Presented in a form and manner as required by the CRA designed to minimize incorrect reporting
 - Includes the information needed to evaluate a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living

Reasonable Policies and Procedures

- Furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of consumer information that it furnishes to a CRA
 - Appropriate to the nature, size, complexity, and scope of each furnisher's activities.
 - Consider the Interagency Guidelines
 - Include its existing policies and procedures that are relevant and appropriate
 - Review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness
- Interagency guidelines
 - Use standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as electronic transmission of information about consumers to consumer reporting agencies
 - Maintain records for a reasonable period, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information furnished about consumers to consumer reporting agencies that is subject to a direct disputer
 - Train staff that participates in credit reporting activities

Notice of Dispute From a CRA

- Receive a notice of dispute from a CRA regarding the accuracy or completeness of any information the person provided to a CRA
 - Procedure in Case of Disputed Accuracy
 - Investigate regarding the disputed information
 - Review all relevant information the CRA provided along with the notice
 - Report the results of the investigation to the CRA
 - If the investigation finds the information is incomplete or inaccurate
 - Report those results to all nationwide CRAs to which the financial institution previously provided the information
 - If the disputed information is incomplete, inaccurate, or not verifiable by the person, it must promptly
 - Modify the item of information
 - Delete the item of information
 - Permanently block the reporting of that item of information

Direct Dispute Definition

- **Direct Dispute**
 - A dispute submitted directly to a furnisher by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

Direct Dispute Duties

- General rule - conduct a reasonable investigation of a direct dispute relating to
 - Consumer's liability for a credit account or other debt with the furnisher
 - Identity theft or fraud against the consumer
 - Individual or joint liability on an account
 - Consumer is an authorized user of a credit account
 - Terms of a credit account or other debt with the furnisher
 - Type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account
 - Consumer's performance or other conduct concerning an account or other relationship with the furnisher
 - Current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed
 - Any other information contained in a consumer report
 - Consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Direct Dispute Exceptions

- Exceptions

- Consumer's identifying information such as name(s), date of birth, Social Security number, telephone number(s), or address(es)
- 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
- Information provided to a CRA by another furnisher

Direct Disputes Exceptions (2)

- Reasonable belief
 - Submitted by a credit repair organization
 - Prepared on behalf of the consumer by a credit repair organization
 - Submitted on a form supplied to the consumer by a credit repair organization

Direct Disputes Address

- Required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at
 - Address provided by a furnisher and listed on a consumer report relating to the consumer
 - Address clearly and conspicuously specified by the furnisher that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher)
 - Business address of the furnisher if the furnisher has not provided a specific address for submitting direct disputes

Direct Dispute Notice

- Dispute notice
 - Sufficient information to identify the account or other relationship that is in dispute
 - Account number and the name, address, and telephone number of the consumer, if applicable
 - The specific information that the consumer is disputing and an explanation of the basis for the dispute
 - All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute
 - Copy of the relevant portion of the consumer report that contains the allegedly inaccurate information, police report, fraud or identity theft affidavit, court order or account statements

Duties after Receiving a Direct Dispute Notice from a Consumer

- After receiving a dispute notice from a consumer
 - 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
 - 30-days beginning on the date the bank receives the notice of the dispute
 - 15-day extension if receives relevant information
 - If the investigation finds that the information reported was inaccurate
 - Promptly notify each CRA
 - Provide any correct information

Frivolous or Irrelevant Disputes

- Not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant
 - Consumer did not provide sufficient information to investigate the disputed information
 - Substantially the same as a dispute previously submitted by or on behalf of the consumer
 - Already complied with FCRA requirements
 - Unless includes information not previously provided to the furnisher
- Exception(s) apply

Notice of Determination

- Upon deciding that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the determination
 - By mail
 - Electronically, if authorized by the consumer
- Notice content
 - Reasons for such determination
 - Identify any information required to investigate the disputed information
 - Standardized form describing the general nature of such information

Questions?

Thank you for your participation!

We hope you found today's presentation valuable.

If you have any additional questions, please contact Compliance Alliance.

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