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CFPB Targets Credit Card Issuers' Payment Furnishing Practices

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On May 25, 2022, the Consumer Financial Protection Bureau announced on its blog that it had sent letters to the chief executive officers of six major credit card issuers seeking information on their practice of withholding actual monthly payment amounts made by their customers from reporting to the national consumer reporting agencies (CRAs). The bureau's latest inquiry comes against the backdrop of a 2020 quarterly consumer trends report, which examined how often lenders furnish actual payment information to CRAs and highlighted a significant decline in actual payment history reporting for credit card companies.

CFPB's 2020 report on payment amount furnishing

In 2020, the CFPB conducted a study on the prevalence of actual payment amount information reported to CRAs over the course of an eight-year period. The research showed a significant decline in actual payment furnishing for credit card accounts between 2012 and 2020 – with only 40% of credit card tradelines containing actual payment data in 2020. By contrast, the study found a steady increase in actual payment furnishing for installment loan products (including mortgages, auto and student loans) during the same period.

According to the CFPB, half of the largest credit card issuers chose to stop furnishing actual payment amount data to prevent competitors from using "tradeline data to identify and poach their most profitable customers." The CFPB also observed that major issuers suspended actual payment amount furnishing during the same quarter in 2014. The report concluded that issuers' decision to withhold actual payment data could have implications on consumer access to credit.

CFPB's latest inquiry

Letters sent to the six major credit card issuers pose the following questions:

- If the issuer had regularly and consistently furnished actual payment data since 2012 but no longer does, or, if the issuer never regularly or consistently furnished actual payment data, what is the rationale for that change or practice?
- If the issuer regularly and consistently furnishes actual payment data for some but not all card account products, what is the rationale for that practice?
- Are there material barriers that would prevent credit card issuers from reporting actual payment amounts to CRAs?
- Does the issuer intend to start furnishing actual payment amount data, and if so, how quickly, consistently and accurately could it furnish that data?

The letters and blog post cite the bureau's 2020 study and warn that suppressing actual payment amount information – which the CFPB says issuers maintain internally for account management and marketing purposes – can leave consumers with thinner credit reports, which in turn may hinder their ability to access credit at competitive rates.

Insights

- This latest probe is yet another example of the bureau's focus on credit reporting issues as well as industry practices that may hinder competition in the marketplace – which have been under close scrutiny since Director Rohit Chopra assumed leadership of the bureau. Most recently, the CFPB announced the opening of a new Office of Competition and Innovation to promote fair competition and reduce barriers for consumers to switch accounts and providers, among other mandates.
- The CFPB's inquiry into credit card issuers' furnishing practices is neither an official probe nor a supervisory request, and

response to its letters is voluntary. Responses received by the bureau could also inform a future rulemaking to require credit card issuers, and furnishers more broadly, to report actual payments made by borrowers to their credit accounts. This latest initiative could also presage future efforts by the CFPB to identify and attempt to address inconsistencies in credit reporting practices across industries.

- We expect the CFPB to continue to pay close attention to credit card companies' practices more broadly and their impact on competition and consumers. In March, the CFPB released a study criticizing late fees charged by credit card issuers. The study was accompanied by a press release suggesting that the bureau may revisit Regulation Z's safe harbor amounts for imposing late fees.[1] The bureau's most recent Supervisory Highlights also focused heavily on issuers' practices involving account management and credit reporting, with an emphasis on consumer reporting dispute investigation and notification issues.
- In addition – and just one day after announcing its inquiry into credit card issuers' withholding of payment information when reporting – the CFPB published a blog post advising consumers of their right, after submitting a credit reporting dispute with a furnisher, to receive a clear statement of results. The blog post reminds all furnishers of the information that such notices must include and specifically calls out credit card furnishers for "sending unclear notices to consumers at the end of dispute investigations."

Notes

1. 12 CFR § 1026.52(b)(1)(ii).

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Key Contacts

Michelle L. Rogers Washington, DC	mrogers@cooley.com +1 202 776 2227

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