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CFPB Reiterates Obligations of Credit Bureaus, Furnishers Under FCRA's Dispute Provisions

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On November 10, 2022, the Consumer Financial Protection Bureau (CFPB) issued Circular 2022-07, affirming the duty of consumer reporting agencies (CRAs) and furnishers to conduct reasonable investigations of consumer disputes under the Fair Credit Reporting Act (FCRA). This latest policy statement comes on the heels of a CFPB advisory opinion regarding inclusion of "facially false data" in credit reports and a blog post reminding furnishers that they must investigate all disputes received from CRAs – and may not deem those as frivolous or irrelevant to evade this obligation. Importantly, the circular and the bureau's accompanying press release call for state attorneys general and state regulators to enforce FCRA's dispute provisions, and bring actions against entities that fail to timely or effectively investigate and resolve consumer disputes.

Overview of Circular 2022-07

FCRA requires that CRAs and furnishers conduct a "reasonable investigation" of all disputes received from consumers that are not frivolous or irrelevant. The CFPB, drawing from supervisory examinations as well as consumer complaints, notes that CRAs and certain furnishers failed to conduct reasonable investigations of consumer disputes, which can adversely affect consumers' eligibility for credit, insurance or housing. Specifically, the circular highlights practices that the bureau deems contrary to FCRA's dispute provisions, and lays out a path for state attorneys general and state regulators to police such practices:

- CRAs and furnishers may not "evade" their obligation to investigate consumer disputes by requiring that consumers submit specific information or documentation beyond statutory requirements as a precondition to investigation, or by requiring that consumers provide dispute information in a particular format or through the entity's proprietary forms.
- CRAs must promptly provide furnishers with "all relevant information" regarding a consumer's dispute, including supporting documentation submitted by the consumer, such as bank statements, billing statements or checks. Noting that information sharing between CRAs and furnishers typically is done electronically, the bureau said CRAs should provide furnishers with electronic images of consumers' dispute documentation to show compliance with their statutory obligation.
- The circular also reiterates the CFPB's view that furnishers must investigate **all** indirect disputes received from CRAs, and they may not circumvent this requirement by deeming a dispute frivolous or irrelevant.

What to expect

CRAs and other participants in the credit reporting market continue to receive significant attention from the CFPB. The circular is yet another example of the bureau's focus on the credit reporting industry, and reflects its renewed efforts to encourage states to regulate and enforce credit reporting practices. It also follows the CFPB's recent trend of focusing on dispute resolution of all types – and the consumer protection implications of what they deem to be inadequate policies and procedures in this space. We expect to see continued close coordination between the CFPB, state attorneys general and state regulators going forward, particularly in light of recent questions concerning the constitutionality of the CFPB's funding.

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