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On November 15, 2022, the Consumer Financial Protection Bureau issued two reports – titled "Tenant Background Checks Market Report" and the "Consumer Snapshot: Tenant Background Checks" – reflecting concerns over incomplete and inaccurate data in tenant screening reports. The reports expand on themes articulated in connection with the CFPB's 2022 list of consumer reporting companies and in a 2021 CFPB bulletin, namely, that the bureau views inaccuracies in tenant screening reports to have the potential to severely harm individuals' financial lives, and it believes that the risks posed by such inaccuracies may be even more elevated as pandemic-related interventions protecting renters expire. Interestingly, the reports were issued just a day after a White House meeting on tenant protections and rent affordability, which was attended by more than 70 tenant leaders and advocates, housing providers, legal advocates, and housing policy experts.

Overview of the reports

The two reports are based on analysis of 17 tenant screening companies and more than 26,000 consumer complaints submitted to the bureau between January 2019 and September 2022. Tenant screening companies are described by the bureau as entities that provide landlords and property managers with identity verification, rental history (including eviction records and rental payment histories), credit checks, income and employment verification, and/or criminal background checks. The CFPB indicates that the information that these companies convey is often rife with errors, incomplete or outdated, and may have minimal value in actually predicting tenant behavior. As such, the CFPB concludes that "some tenant screening companies are not meeting the legal requirements under the [Fair Credit Reporting Act (FCRA)] to 'follow reasonable procedures to assure maximum possible accuracy' of the information in the reports they compile."

The CFPB also stresses that while landlords and property managers relying on tenant screening reports are required to "provide an adverse action notice to an applicant if they are denied or required to take on lease terms that are not required of others due to information in a screening report," they often do not do so. As a result, renters were not consistently informed of their right to dispute information in their tenant screening reports and, thus, did not always understand how to file a dispute.

The final sections of both reports reflect the bureau's intent to continue monitoring tenant screening companies and take action to help renters and rental applicants exercise their rights. In particular, the "Tenant Background Checks Market Report" emphasizes that the CFPB will take further action to ensure tenant screening companies are complying with FCRA by:

- Identifying guidance or rules that can be issued to ensure compliance.
- Determining how to require background screening companies to develop and maintain appropriate and accurate consumer reporting practices.
- Coordinating law enforcement efforts with the Federal Trade Commission (FTC) – which included its own statement in the press release accompanying the CFPB's reports – to ensure tenant screening companies maintain reasonable procedures to assure accurate information in the consumer reporting system.
- Coordinating with federal and local government agencies to ensure tenants receive information about potential inaccuracies in their reports in a timely fashion, and that compliant adverse action notices are provided.

To support these statements, the "Consumer Snapshot: Tenant Background Checks" references recent CFPB publications concerning compliance with FCRA, underscoring the bureau's view that tenant screening companies must comply with FCRA and take note of the opinions outlined in the bureau's recent FCRA-focused publications.

What to expect?

The reports do not announce immediate legal action or regulatory reforms, but reflect the bureau's continued commitment to address inaccuracies in consumer reports, and its intent to coordinate with other federal

agencies, such as the FTC, as well as state agencies, to hold participants in the consumer reporting industry accountable. Given that the CFPB's interest in tenant protections is clearly shared by the FTC, as well as the White House, we expect that coordinated investigations and enforcement, in particular, of tenant screening companies, may be on the horizon.

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