



Credit Reporting in a COVID World

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Creditors that furnish information on consumer accounts to consumer reporting agencies must do so with accuracy and integrity consistent with the Fair Credit Reporting Act and its implementing regulations. “Accuracy” means that the information provided to a consumer reporting agency correctly: (1) reflects the terms of and liability for the account; (2) reflects the consumer’s performance with respect to the account; and (3) identifies the appropriate consumer. “Integrity” means that the information provided is: (1) substantiated by the furnisher’s records at the time it is furnished; and (2) furnished in a form and manner designed to minimize the likelihood that the information may be incorrectly reported.

Furnishers are required to adopt a written policy that explains how they will furnish information to consumer reporting agencies and how they will handle disputes received related to that information, consistent with the “Guidelines Concerning the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies.”

Recognizing the need for relief by consumers affected by the current pandemic, Congress passed the CARES Act. Furnishers must be mindful of the CARES Act because it addresses the manner in which certain consumer accounts must be furnished, particularly with regard to consumers who receive “accommodations” on their accounts. An “accommodation” under the CARES Act is defined to include “an agreement to defer one or more payments, make a partial payment, forbear any delinquent amounts, modify a loan or contract, or any other assistance or relief granted to a consumer who is affected by the coronavirus disease 2019 (COVID-19) pandemic during the covered period.”

Where a creditor has made an accommodation to a consumer on one or more payments on an account, and the consumer makes the modified payments, or the consumer is allowed to skip one or more payments, the furnisher is required to: (1) report the account as current; or (2) if the account was delinquent before the accommodation, maintain the delinquent status during the period during which the accommodation is in effect.

If the consumer brings the account current during the “covered period,” the furnisher must then report the account as current. The “covered period” means the period beginning January 31, 2020, and ending on the later of: (1) 120 days after the date of enactment; or (2) 120 days after the date the national emergency concerning COVID-19 terminates.

The Consumer Financial Protection Bureau issued guidance to furnishers regarding their obligations under the FCRA and the CARES Act. In particular, the CFPB encourages furnishers to continue furnishing information to consumer reporting agencies, noting that “[c]onsumer report

information is critical to consumers and industry in determining who obtains credit, insurance, and housing, and at what price, and who obtains employment in many cases.” Related to the reporting of accommodations, the CFPB assured furnishers that “it does not intend to cite in examinations or take enforcement actions against those who furnish information to consumer reporting agencies that accurately reflects the payment relief measures [creditors] are employing.”

As a result, furnishers should evaluate their current underwriting and modification policies and procedures and consider whether accommodations are available for their customers in accordance with applicable laws. Should the creditor determine it has an accommodation policy, the creditor should also review and revise its furnishing policies to assure compliance with the FCRA and the CARES Act.