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Supervisory Highlights Consumer Reporting Special Edition

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1. Executive Summary

Credit reporting plays a critical role in consumers' financial lives, a role that most consumers do not recognize because it is usually not very visible to them. Credit reports on a consumer's financial behavior can determine a consumer's eligibility for credit cards, car loans, and home mortgage loans – and they often affect how much a consumer is going to pay for that loan. Federal law provides an important framework to ensure the players in the consumer reporting system receive the benefits of our risk-based credit economy.

The Consumer Financial Protection Bureau (CFPB) is the first Federal agency to have supervisory authority over many of the key institutions in the consumer reporting system. First are the creditors and others that supply the information about consumers' financial behavior, referred to as furnishers, including banks, mortgage servicers, student loan servicers, and debt collectors. Second are the consumer reporting companies (CRCs), including the largest consumer reporting companies, consumer report resellers, and specialty consumer reporting companies. CRCs sell the information in the form of consumer reports to creditors and other users and provide them to consumers. Third are those that use the information for credit decisions as well as employment, insurance, and other decisions. The CFPB's jurisdiction over the major players in each of these categories is unique and has allowed the Bureau to take an integrated approach to improving the accuracy of information across the system.

We prioritized this market for oversight to promote our vision of a consumer reporting system: a system where furnishers provide and CRCs maintain and distribute data that are accurate, supplemented by an effective and efficient dispute management and resolution process for consumers.

The CFPB's vision is rooted in the obligations and rights set forth in the Fair Credit Reporting Act (FCRA) and Regulation V.¹ In the last two years, we identified failings in compliance management systems and violations of law both at CRCs and at furnishers. As a result, we have directed specific improvements in data accuracy and dispute resolution at one or more CRCs, including:

- stepped-up oversight of incoming data from furnishers;
- institution of quality control programs of compiled consumer reports;
- monitoring of furnisher dispute metrics to identify and correct root causes;
- enhanced oversight of third-party public records service providers;
- enforced independent obligation to reinvestigate consumer disputes, including review of relevant information provided by consumers; and
- improved communication to consumers of dispute results.

¹ 15 USC 1681, et seq. and 12 CFR pt. 1022.

We directed both bank and nonbank furnishers to develop reasonable written policies and procedures regarding accuracy of the information they furnish and to take corrective action when they furnished inaccurate information. In addition, we took significant steps to ensure furnishers' dispute handling processes comply with the law in response to failures either to conduct investigations or to send results of dispute investigations to consumers.

This Special Edition of *Supervisory Highlights* details these most recent supervisory observations in the consumer reporting market. In sum, our work is producing an entirely different approach to ensuring compliance at the major consumer reporting companies: one of proactive attention to compliance, as opposed to a defensive, reactive approach in response to consumer disputes and lawsuits. This proactive approach to compliance management will reap benefits for consumers – and the lenders that use consumer reports – for many years to come.

2. Supervisory observations at consumer reporting companies

The CFPB's supervisory authority over CRCs extends to those that are larger participants in the consumer reporting market.² Participants in this market include nationwide consumer reporting companies, consumer report resellers, and specialty consumer reporting companies.³ Recent supervisory reviews of CRCs have evaluated the compliance management system (CMS) for assuring the accuracy throughout the lifecycle of the data the CRC collects, maintains, and uses to prepare consumer reports.⁴ Recent reviews also evaluated whether the CRCs comply with the FCRA's requirements regarding consumer dispute processes.⁵

Overall, and as a result of these reviews, CRCs have made significant advances to promote greater accuracy, the oversight of furnishers, and enhancements to the dispute resolution function. Continued improvements are necessary in these and other areas. Supervision has directed many CRCs to take actions in these areas and will monitor closely the progress by these CRCs.

² Larger participants in the consumer reporting market are defined in 12 CFR 1090.104.

³ The term "consumer reporting company" means the same as "consumer reporting agency," as defined in the Fair Credit Reporting Act, 15 USC 1681a(f), including nationwide consumer reporting agencies as defined in Section 1681a(p) and nationwide specialty consumer reporting agencies as defined in Section 1681a(x).

⁴ These reviews have evaluated CMS to ensure compliance with 15 USC 1681e(b), which requires CRCs to "follow reasonable procedures to assure maximum possible accuracy of the information [included in a consumer report] concerning the individual about whom the report relates."

⁵ The FCRA's dispute process requirements applicable to CRCs are detailed at 15 USC 1681i.

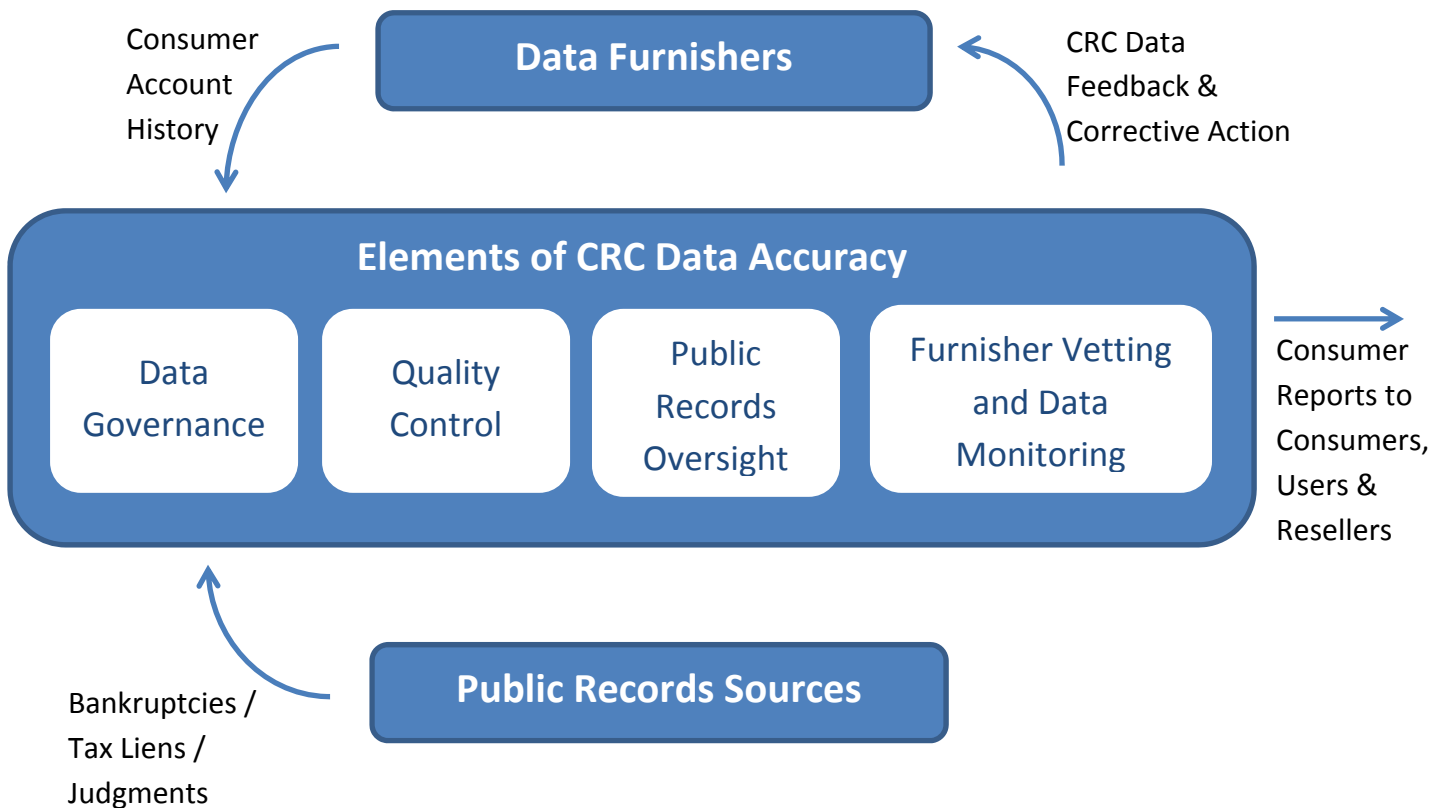
Data Accuracy

The accuracy of the data maintained by the CRCs is the backbone on which our credit-based economy relies. Consumers depend on the accuracy of the credit reporting data to obtain credit and to realize their financial goals. Similarly, financial institutions and other industries (for example, mortgage and auto lending) that are heavily dependent on credit markets also rely on the accuracy of data in these reports to calibrate the appropriate risk-based credit to offer consumers.

Initial accuracy reviews indicated that CRC(s)' data governance functions were decentralized and had undefined responsibilities. They lacked quality control policies and procedures to test compiled consumer reports for accuracy, had inconsistent practices for vetting furnishers and providing data quality feedback to them, and had insufficient monitoring and oversight of furnishers once approved to provide data. The following sections detail improvements CRC(s) are implementing to remedy these deficiencies.

To demonstrate some of the data accuracy enhancements that Supervision has directed many CRCs to undertake, Supervision created this diagram:

FIGURE 1: CONSUMER REPORT DATA ACCURACY LIFECYCLE



Source: CFPB 2017.

2.1 Data governance

Data governance systems are crucial to accuracy and data integrity obligations of the CRCs. Effective data governance policies establish and clearly document the company's system of decision rights and accountabilities for handling consumer information and managing any changes that may affect such information.

One or more CRCs have improved their data governance policies and procedures and formalized a data governance program. As an example, one or more CRCs established data governance structures with personnel authorized and directed to:

- oversee policies, procedures, data quality metrics, and trends;
- approve policies and procedures, as well as escalate decisions to higher authorities within the CRC(s);
- oversee furnisher monitoring, law and policy, and procedures;
- take actions against furnishers that fail to comply with the established requirements, including ceasing to accept data furnished from noncompliant furnishers;
- review and track metrics relating to data governance on a regular basis; and
- oversee a centralized repository of data definitions, business rules, and data quality rules.

2.2 Quality control programs to assess the accuracy and integrity of consumer reports, including oversight of third-party public records providers

Creation of quality control programs that assess the accuracy and integrity of data included in consumer reports

In a prior issue of *Supervisory Highlights*, we explained that, following the initial reviews of accuracy programs, examiners found that one or more CRCs lacked quality control policies and procedures to test compiled consumer reports for accuracy.⁶

In follow-up reviews at one or more CRCs, examiners found the following improvements:

- establishment of robust quality control programs that regularly assess the accuracy of information included in consumer reports;

⁶ CFPB, *Supervisory Highlights*, 2.1.2 (Summer 2015) (explaining that “[w]hile processes existed to analyze and improve the quality of incoming data, there was no post-compilation report review or sampling to test the accuracy of [compiled] consumer reports.”).

- as part of the quality control program, development of tests to identify whether consumer reports are produced regarding the wrong consumer and whether consumer reports contain mixed file data, and development of systems designed to measure the accuracy of consumer reports and identify patterns and trends in errors; and
- utilization of the results of the quality control program to take corrective action by identifying the source of identified inaccuracies and making necessary system improvements to prevent the recurrence of such errors.

Enhancements in oversight of third-party public records providers

Examiners have also noted improvements in the oversight of public records providers at one or more CRCs. In the initial accuracy reviews, examiners noted that one or more CRCs did not adequately oversee the accuracy or integrity procedures at third-party providers of public records data.⁷ In follow-up reviews, examiners concluded that one or more CRCs improved oversight in this area by:

- enhancing the CRC(s)' standards for the public records data that will be accepted, including greater frequency of updates and stricter identity-matching criteria; and
- increasing the frequency and scope of audits of its third-party public records provider, thereby strengthening the CRC(s)' ability to identify potential sources of inaccuracy and identity-matching errors.

We will continue to monitor the status of these system improvements.

2.3 Furnisher oversight and data monitoring by CRCs

Furnisher vetting

In a previous issue of *Supervisory Highlights*, we noted that one or more CRCs initially vetted new furnishers to ensure reliability of and adherence to furnisher membership requirements.⁸ However, the reviews also noted that there was insufficient ongoing monitoring, or re-vetting, of furnishers once a furnisher passed the initial vetting.⁹ In recent follow-up reviews, we determined that these policies and procedures have improved. One or more CRCs established and implemented enhanced controls to re-vet furnishers on a risk basis to ensure furnishers continue to meet initial and ongoing requirements. Such controls include:

- the review of an existing furnisher's ability to maintain minimum data security standards;

⁷ CFPB, *Supervisory Highlights*, 2.1.1 (Summer 2015).

⁸ *Id.*

⁹ *Id.*

- the re-vetting of furnishers where the furnisher's management changes could impact its capacity to meet membership requirements; and
- a process to temporarily cease accepting data from identified furnishers that fail re-vetting until required improvements are made by the furnisher, during which time trade line information reported by the furnisher is suppressed, and the furnisher must then demonstrate compliance with the reporting requirements before its furnished data will again be included in consumer reports.

One or more CRCs established policies and procedures to monitor and identify furnishers who do not meet data submission and quality requirements and to take corrective action where appropriate. Examiners found that the improved monitoring program(s) include:

- actively monitoring for inactive data furnishers, notifying furnishers when monthly data submissions are missed, and ceasing to accept data from furnishers who fail to furnish updated data for a number of consecutive months;
- monitoring for furnishers that do not comply with the CRC(s)' data submission thresholds establishing the maximum number of times a furnisher's data can be rejected by the CRC(s); and
- alerting furnishers when anomalies are detected in furnished data to identify and correct potential sources of inaccuracy.

Monitoring of furnisher dispute data

We also reviewed one or more CRCs' policies and procedures to monitor furnisher dispute data as a component of their data accuracy programs. For example, data indicating that particular furnishers receive a higher rate of disputes from consumers under the FCRA, or respond to disputes in ways that indicate the furnisher is not investigating disputes, can be useful to CRCs in identifying sources of data inaccuracy. Examiners found that one or more CRCs:

- monitored furnisher responses to consumer disputes to identify furnishers with response rates and other patterns potentially indicating that they are not meeting their reinvestigation requirements, for example because the furnisher does not respond to consumer disputes;
- identified furnishers with particular response rates that are higher in one area than expected and notified the identified furnishers of the CRC(s)' concerns;
- requested the furnisher to investigate the cause of the anomaly and correct its practices where needed; and
- for any furnisher that does not respond and correct its practices, the CRC(s) took further action, including ceasing to accept data from the furnisher.

At one or more CRCs, examiners observed that these new procedures improved furnishers' dispute response levels, for example by eliminating data provided by furnishers that refuse to reasonably investigate disputes and, for those furnishers that wish to continue furnishing, increasing the rate at which the furnishers investigate and respond to disputes within the time periods required under the FCRA.

However, examiners also noted that one or more CRCs had not yet implemented policies or procedures to monitor furnisher dispute data. Based on these findings, Supervision directed the CRC(s) to develop and implement internal processes to monitor furnisher dispute responses and to detect furnishers with dispute rates or dispute responses that may indicate risk of inaccurate consumer data or other consumer harm. Directives included:

- establishing the necessary employee training and escalation guidelines for reporting furnisher monitoring issues to senior management;
- instituting procedures for monitoring furnisher dispute data; and
- establishing adequate corrective action measures designed to minimize the risk of reporting inaccurate data.

Providing data quality reports to furnishers

In a prior issue of *Supervisory Highlights*, we noted one or more CRCs lacked systematic or consistent policies and procedures for providing feedback to furnishers regarding the quality of data furnished.¹⁰ For example, these reviews identified that the CRC(s) designed reports that would identify for each furnisher whether its data had been rejected and what kind of formatting errors were identified. This information could be helpful to the furnisher to improve its data quality, but the examiners found that one or more CRCs relied on furnishers to request the reports or, in some cases, imposed a fee before the reports were provided to furnishers.¹¹

In follow-up reviews, examiners found that one or more CRCs improved furnisher access to data quality reports. The CRC(s) made receipt of certain data-quality reports mandatory for all data furnishers at no cost, thereby resulting in increased visibility and availability of such reports to furnishers on a regular basis.

2.4 Resold merged reports

Examiners also evaluated the accuracy and dispute handling procedures at one or more reseller CRCs.¹² In these reviews, we found that the reseller(s) lacked reasonable procedures to assure maximum possible accuracy because the reseller(s) used systems with known programming errors that introduced inaccuracies in consumer report data when the reseller(s) merged consumer report data they had purchased from multiple CRCs. In light of these findings, the reseller(s) conducted a comprehensive review to determine the full impact on consumers. Additionally, examiners directed the reseller(s) to enhance accuracy procedures to prevent similar data-merge errors.

¹⁰ CFPB, *Supervisory Highlights*, 2.1.1 (Summer 2015).

¹¹ *Id.*

¹² The term “reseller” is defined in 15 USC 1681a(u).

Dispute Handling and Resolution

Supervision also continued its focus on CRCs' compliance with the FCRA's requirements to process and investigate consumer disputes. When a consumer believes there is inaccurate information in his or her consumer report, the FCRA enables consumers to dispute the information. The consumer may provide relevant supporting information with the dispute, such as a cancelled check to demonstrate payment or a document to demonstrate that the consumer is not liable for the credit account or debt.

Once a determination regarding the dispute is made, timely and clear notification to the consumer of the results of the dispute helps ensure the consumer understands whether a change was made and the reason for the decision. A well-functioning dispute resolution process is critical to promoting confidence in the consumer reporting system and in empowering consumers to take charge of their financial lives. A strong system that efficiently and clearly resolves consumer disputes so that consumers do not needlessly re-dispute information benefits CRCs and furnishers as well.

In previous issues of *Supervisory Highlights*, we discussed earlier CFPB reviews of the dispute handling procedures in place at one or more CRCs and the subsequent improvements in those processes:¹³

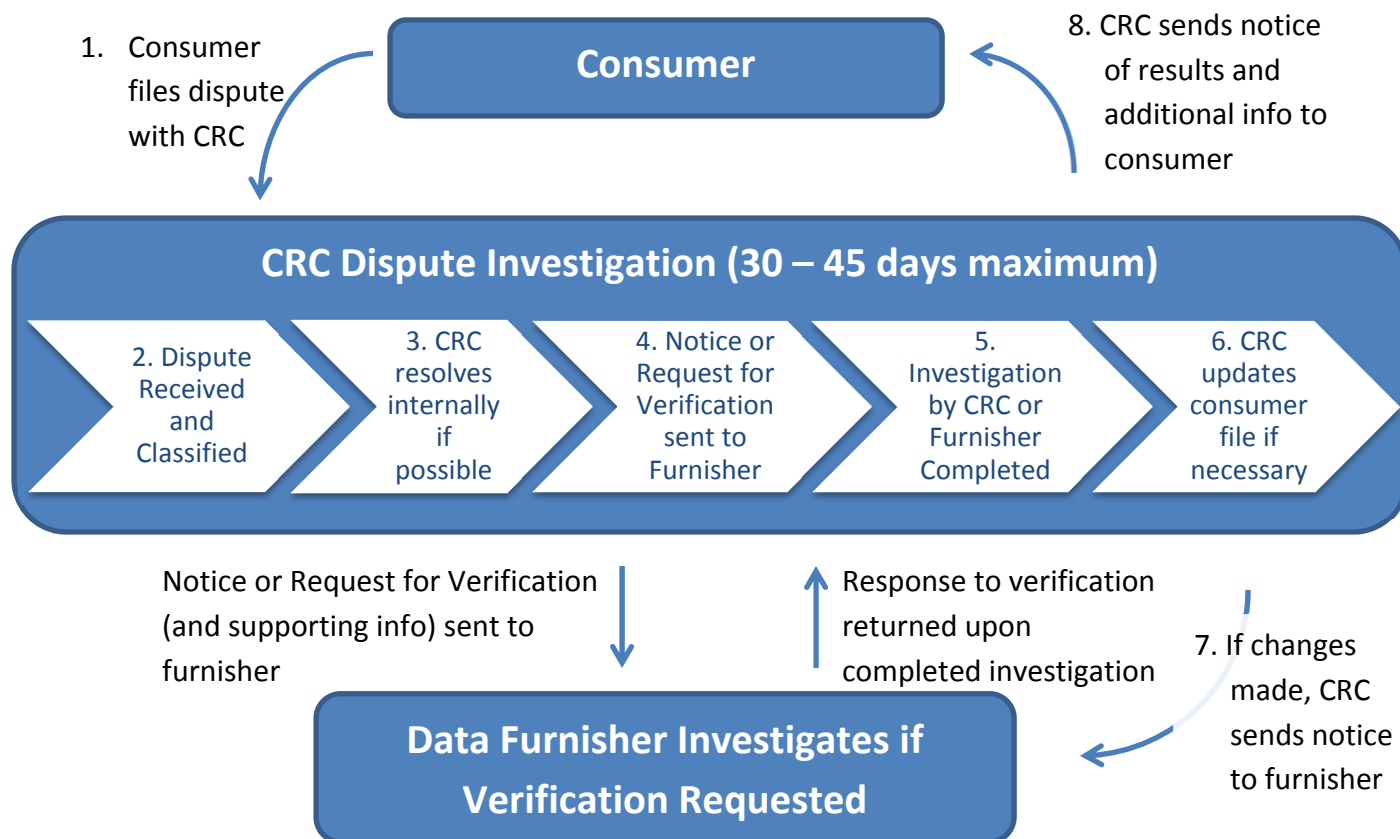
- consumers now are able to use online portals to submit disputes and upload attachments of supporting documentation;
- CRC(s) have implemented systems to forward to furnishers relevant dispute documents submitted by consumers;
- CRC(s) have made improvements to call center scripts and training regarding solicitation of relevant information from consumers with disputes; and
- CRC(s) no longer require that consumers obtain or purchase a recent consumer report before the CRC(s) accept disputes filed online or by telephone.

Building on these improvements, subsequent reviews at one or more CRCs have focused on the dispute resolution procedures in place to conduct a reasonable investigation of consumer disputes and communicate the results of the investigation adequately to the consumer.

To aid in our description of the dispute process, Supervision created the following simplified diagram depicting a number of key steps taken by CRC(s) when processing, investigating, and responding to consumer disputes:

¹³ CFPB, *Supervisory Highlights*, 2.1 (Fall 2014) (initial dispute handling reviews); CFPB, *Supervisory Highlights*, 2.1 (Winter 2015) (dispute handling follow-up reviews).

FIGURE 2: DISPUTE INVESTIGATION AND RESOLUTION PROCESS



Source: CFPB 2017.

2.5 Reasonable reinvestigation of disputes and consideration of relevant information

The FCRA requires that, when a consumer disputes the completeness or accuracy of any item contained in his or her consumer file with the CRC, the CRC must conduct a reasonable reinvestigation to determine whether the disputed item is inaccurate and record the current status of the disputed information or delete the item from the file.¹⁴ As part of the CRC's reasonable reinvestigation, the CRC is required to review and consider all relevant information submitted by the consumer.¹⁵

Examiners found that one or more CRCs did not comply with this obligation in certain circumstances. For example, in cases where consumers submitted certain categories of

¹⁴ 15 USC 1681i(a).

¹⁵ 15 USC 1681i(a)(4).

documentary evidence in support of a dispute, one or more CRCs failed to review and consider the attached documentation and relied entirely on the furnisher to investigate the dispute. To correct this violation, examiners directed the CRC(s) to revise policies and procedures regarding dispute reinvestigations to ensure appropriate and reasonable review and consideration of consumer proof documents.

2.6 Notice to furnishers of disputes

When a consumer files a dispute with a CRC, the FCRA requires the CRC to provide notification of the dispute within five business days to the furnisher who provided the information that is in dispute.¹⁶ At one or more CRCs, examiners found instances where the required notice was not provided because the furnishers' contact information was no longer valid at the time of the consumers' disputes. As a result, examiners required the CRC(s) to implement changes to comply with the FCRA's dispute handling requirements, including ensuring that contact information with furnishers remains current for the purpose of providing required dispute notifications.

The FCRA also requires that, following a dispute investigation, the CRC must provide prompt notice of any modification or deletion to the furnisher.¹⁷ Examiners found that one or more CRCs failed in certain circumstances to provide this required notice. Supervision directed the CRC(s) to develop processes to ensure that data furnisher notifications of deletions or modifications are provided to the furnisher in all instances required by the FCRA.

2.7 Notice to consumers of dispute results

The FCRA requires that, upon completion of the reasonable reinvestigation, the CRC must provide written notice of the results to the consumer not later than five business days after completion of the reinvestigation.¹⁸

Examiners found that one or more CRCs sent dispute notices to consumers that did not report the results of the reinvestigation. In particular, at one or more CRCs, examiners identified consumer dispute notices that failed to articulate clearly the results of the dispute investigation to the consumer as required by the FCRA. The notices, instead, simply indicated that the dispute investigation was complete but did not state the result of that investigation. To correct this violation, examiners directed one or more CRCs to describe more precisely the result of the investigation, such as whether changes were made as a result of the dispute investigation.

¹⁶ 15 USC 1681i(a)(2)(A).

¹⁷ 15 USC 1681i(a)(5)(A)(ii).

¹⁸ 15 USC 1681i(a)(6)(A).

3. Supervisory observations at furnishers

Furnishers of information play a crucial role in the accuracy and integrity of consumer reports when they provide information to CRCs. Inaccurate information from furnishers can lead to inaccurate reports and consequent harm to consumers and the market. For example, inaccurate information on a consumer report can affect a consumer’s ability to obtain credit, housing, or employment. Moreover, furnishers have an important role in the dispute process when consumers dispute the accuracy of information on their consumer reports. Consumers may dispute information that appears on their consumer report directly to furnishers (“direct disputes”) or indirectly through CRCs (“indirect disputes”), and furnishers are required to investigate both types of consumer disputes to verify the accuracy of the information furnished.¹⁹ A timely and responsive reply to a consumer dispute may reduce the impact that inaccurate negative information on a consumer report may have on the consumer. The FCRA and Regulation V set forth requirements for furnishers concerning both accuracy and dispute handling. To ensure compliance with these requirements, Supervision has conducted a number of reviews at a variety of furnishers subject to its supervisory authority.

Supervision found CMS weaknesses and numerous violations of the FCRA and Regulation V that required corrective action by furnisher(s).

3.1 CMS/Data governance

As the CFPB has emphasized, we expect institutions subject to our supervisory authority to structure their CMS in a manner sufficient to comply with Federal consumer financial laws and appropriately address associated risks of harm to consumers.²⁰ This expectation includes ensuring the furnisher implements and maintains a CMS sufficient to ensure compliance with furnisher obligations required under the FCRA, as appropriate.

In one or more reviews of furnisher(s), examiners found several weaknesses in CMS, including the following:

- weak oversight by management and the Board of Directors over furnishing practices;
- no formal data governance program;
- failure to update policies and procedures;
- weak training of employees who conduct furnishing and dispute handling operations; and

¹⁹ 15 USC 1681s-2(a)(8) and 15 USC 1681s-2(b). 12 CFR 1022.43.

²⁰ CFPB, *Supervisory Highlights*, 2.1 (Summer 2013).

- weak monitoring and corrective action, including failure to conduct follow up testing on consumer account files submitted to and rejected by one or more CRAs.

Supervision directed the furnisher(s) to take appropriate action to address these weaknesses in their CMS programs as they relate to their actions in furnishing information to CRCs.

3.2 Reasonable written policies and procedures requirement

Regulation V requires furnishers to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that they provide to CRCs.²¹ Such policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher’s activities.²² Supervision found that one or more furnisher(s) failed to meet this requirement by failing to have policies and procedures:

- for handling and investigating direct disputes from consumers;
- for the creation and retention of documentation to substantiate final dispute decisions;
- to prevent duplicative or mixed file reporting;
- to instruct how to conduct reasonable investigations of consumer disputes, including directing dispute-handling agents to compare the disputed information to all available information in all systems of record that could contain information relevant to a consumer’s dispute;
- to prevent dispute-handling agents from responding “verified” immediately upon receipt of a dispute, instead of ensuring a reasonable reinvestigation was completed timely; and
- for the third-party service providers conducting the furnishing on behalf of the furnisher(s).

For furnishing consumer deposit account information, Supervision found that furnisher(s):

- had enterprise-wide FCRA policies, but the policies were inadequate to address furnishing activity for consumer deposit accounts;
- failed to establish, implement, and maintain reasonable written policies and procedures consistent with Regulation V regarding the accuracy and integrity of consumer deposit account information furnished;
- had policies for furnishing consumer deposit account information that were overly broad and not supplemented with sufficiently-detailed operating procedures and guidance for consumer deposit-related furnishing;

²¹ 12 CFR 1022.42(a).

²² *Id.*

- had procedures that did not address the requirement to notify a consumer of the results of a dispute investigation; and
- had procedures that failed to address the requirement to update and correct inaccurate consumer deposit information.

Supervision directed the furnisher(s) to correct the deficiencies.

3.3 Guidelines for furnishers in Appendix E of Regulation V

Regulation V requires furnishers, as they create policies and procedures, to consider and incorporate, as appropriate, the guidelines of Appendix E to Regulation V.²³ These guidelines address key business functions, such as record retention, training, third-party oversight, and receipt of feedback from CRCs and others that contribute to a furnisher’s ability to ensure the accuracy and integrity of the data furnished to CRCs. In the past year, examiners evaluated furnishers’ consideration and incorporation of the Appendix E guidelines as appropriate to each institution. As a result of the reviews, examiners observed the following failures of furnisher(s) to meet this requirement of Regulation V and required the corrective actions described below.

Accuracy with respect to transferred accounts (date of first delinquency)

Appendix E of Regulation V states that a furnisher’s policies and procedures should be reasonably designed to promote furnishing information that is accurate, which includes furnishing information that reflects the terms of and liability for accounts, as well as consumers’ performance on such accounts.²⁴ Appendix E also states that a furnisher’s policies and procedures should address furnishing information about consumers following transfers of accounts in a manner that prevents re-aging of accounts and other problems that may affect the accuracy or integrity of the information furnished.²⁵

Examiners found that one or more furnishers’ written policies and procedures for furnishing did not address situations where information is absent on incoming loan servicing data transfers. Specifically, if a transferor’s servicer did not provide the date of first delinquency (DOFD), the policies and procedures did not require follow-up to obtain and accurately report the DOFD. The DOFD affects consumers because the FCRA directs that certain negative information not be included on consumer reports for longer than a specified period of time.²⁶ If the DOFD date is

²³ 12 CFR 1022.42(b).

²⁴ 12 CFR 1022.42, Appendix E, I(b)(1).

²⁵ 12 CFR 1022.42, Appendix E, III(g).

²⁶ 15 USC 1681c(a).

incorrect, the negative information associated with the specific tradeline may persist in the consumer file longer than legally permissible. The policies and procedures of the furnisher(s) directed agents to furnish information about such accounts even though the DOFD was not known. Supervision directed furnisher(s) to revise their written policies and procedures to ensure the DOFD from the transferor servicer was obtained and the furnishing of payments received on charged-off loans was updated accordingly.

Maintaining records

In developing its policies and procedures, a furnisher should address how to “maintain[] records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute.”²⁷

Examiners found at one or more furnishers that the policies and procedures for handling direct and indirect disputes required only the retention of certain documents. Examiners found that the retained documents did not substantiate the accuracy of the furnishers’ decision as to the dispute. Deficient documentation included the failure to memorialize what the agent reviewed or the logic of the agent’s investigation. Examiners attributed these failures to the weak policies and procedures and the failure to conduct monitoring or a compliance audit to identify the inadequate record retention. Examiners also found that when furnisher(s) processed an indirect dispute, they did not retain a copy of the attachments submitted by consumers to the CRC in connection with the dispute. By not retaining attachments, a furnisher compromises its ability to conduct ongoing quality checks of its dispute investigations. Supervision directed furnisher(s) to retain attachments submitted with indirect disputes for a reasonable amount of time.

Additionally, examiners found that furnisher(s) did not have adequate written policies and procedures in place to properly identify and track direct disputes. Accordingly, examiners were unable to verify that the furnisher(s) undertook a reasonable reinvestigation within the legally required timeframe. Supervision directed the furnisher(s) to ensure records related to disputes are maintained for a reasonable amount of time. Supervision made this direction to rectify the furnisher(s)’ failure to consider the guidelines as required by Regulation V in developing their policies and procedures.

Feedback from consumer reporting companies

In establishing and implementing its policies and procedures, a furnisher should consider any feedback received from CRCs, consumers, or other appropriate parties.²⁸ The feedback may

²⁷ 12 CFR 1022.42, Appendix E, III(c).

²⁸ 12 CFR 1022.42, Appendix E, II(a)(3).

indicate compliance gaps or persistent violations that the furnisher should address.²⁹ Examiners found instances where furnisher(s) failed to:

- have policies or procedures for the handling of feedback received from CRCs related to data quality;
- review exception reports or identify, correct, and resubmit invalid data identified by the exception reports; and
- have policies and procedures that provide sufficient guidance to dispute-handling agents on how to proceed when the information provided by the consumer is inconsistent with the information contained in the furnisher's system.

Oversight of service providers

Furnishers' policies and procedures should address appropriate and effective oversight of relevant service providers whose activities may affect the accuracy and integrity of information furnished to CRCs.³⁰ Examiners found that furnisher(s)' policies and procedures failed to ensure appropriate oversight of their service provider(s). The lack of policies and procedures resulted in the improper sale to one or more debt buyers of consumer deposit accounts that were erroneously charged off. Supervision directed the furnisher(s) to ensure that the written policies and procedures consider and address, as appropriate, the oversight of service providers and other guidance provided in Appendix E of Regulation V.

Quality control

Appendix E of Regulation V states that a furnisher, in developing its policies and procedures, should specify how it will establish and implement appropriate internal controls for the accuracy of information furnished. These controls can include implementing standard procedures and verifying random samples of information provided to CRCs.³¹ Internal controls can identify data accuracy issues early on and lead to appropriate corrective action to address such issues.

In one or more reviews, examiners found the following deficiencies in quality control:

- failure to perform quality checks on the data furnished to CRCs;
- failure to test for the accuracy of the information after it is furnished, such as whether the amount furnished as charged off is correct or whether the name or other identifying information of the account holder is correct;
- failure to conduct ongoing periodic evaluations or audits of furnishing practices, or data furnished to CRCs; and
- failure to conduct audits of dispute information to identify and correct root causes of any inaccurate furnishing.

²⁹ *Id.*

³⁰ 12 CFR 1022.42, Appendix E, III(f).

³¹ 12 CFR 1022.42, Appendix E, III(d).

Reasonable investigations of disputes

Appendix E of Regulation V provides that furnishers' policies and procedures should be reasonably designed to promote reasonable investigations of consumer disputes and take appropriate action based on the outcome of such investigations.³² Examiners found that one or more furnishers' policies and procedures failed to promote reasonable investigations of disputes.

Training of staff

In developing their policies and procedures, furnishers should address how they will train the staff that participates in activities related to the furnishing of information on how to implement the policies and procedures.³³ A well-trained staff is a key component of a strong compliance management system. Examiners found that one or more furnishers established policies and procedures that failed to address training related to furnishing. At one or more furnishers of consumer deposit account data, examiners also found no evidence that furnisher(s) provided training to employees related specifically to furnishing of consumer deposit-related data or dispute handling and resolution. Supervision directed one or more furnishers to update and conduct training to ensure adequate handling of direct and indirect disputes of consumer deposit account information.

Periodically review and update furnishing policies and procedures

Regulation V requires furnishers to review their policies and procedures "periodically and update them as necessary to ensure their continued effectiveness."³⁴ CFPB examiners found that furnisher(s) did not review and update their furnishing policies and procedures as necessary for compliance with this requirement. Supervision directed furnisher(s) to update and implement revisions to their policies in accordance with Regulation V.

3.4 Data accuracy requirements of furnishers

Reporting information with actual knowledge of errors

Inaccurate reporting undermines the central purpose of consumer reports, which is to predict, among other factors, the potential creditworthiness of consumers. Section 623(a)(1)(A) of the FCRA requires that a furnisher shall not furnish any information relating to a consumer to any

³² 12 CFR 1022.42, Appendix E, I(b)(3).

³³ 12 CFR 1022.42(b), Appendix E, II(e).

³⁴ 12 CFR 1022.42(c).

CRC if the furnisher knows or has reasonable cause to believe that the information is inaccurate.³⁵

Examiners found one or more furnishers provided consumer information to CRCs while knowing or having reasonable cause to believe that the information was inaccurate because the information furnished did not accurately reflect the information in the furnisher(s)' systems. The types of information inaccurately furnished included that:

- consumers were delinquent;
- consumers had no payment history;
- consumers had a "\$0" actual payment amount;
- consumers had an unpaid charged-off balance when consumers had, in fact, settled the account in full; and
- amounts past due and bankruptcy status.

A furnisher is not subject to Section 623(a)(1)(A) if the furnisher clearly and conspicuously specifies an address for consumers to provide notice that they dispute specific information as inaccurate.³⁶ However, the FCRA does not require a furnisher to specify such an address.³⁷ Supervision determined that one or more furnishers did not clearly and conspicuously specify such an address to consumers.

Date of first delinquency

The date of first delinquency is important for CRCs, creditors, and consumers because it determines when information on a consumer report becomes obsolete and may no longer be reported.³⁸ The FCRA requires furnishers of information regarding delinquent accounts to report the date of delinquency to the CRC within 90 days.³⁹ In one or more reviews, furnisher(s) failed to report accurate dates of first delinquency on accounts when consumers who had been delinquent filed for bankruptcy. Specifically, one or more furnishers updated the date of delinquency when consumers filed for bankruptcy to reflect the date of bankruptcy filing as the date of first delinquency. Supervision directed furnisher(s) to re-evaluate the accounts with bankruptcy, charge-off, and other applicable post-delinquency statuses to confirm the date of first delinquency was reported accurately and to promptly correct and update the dates of first delinquency with the CRCs, as necessary.

³⁵ 15 USC 1681s-2(a)(1)(A).

³⁶ 15 USC 1681s-2(a)(1)(C).

³⁷ *Id.*

³⁸ 15 USC 1681c(a)-(b). Information may be reported if certain exceptions specified in the statute apply.

³⁹ 15 USC 1681s-2(a)(5)(A). This provision applies to accounts placed for collection, charged to profit or loss, or subjected to similar action. The date of delinquency is the month and year of the commencement of the delinquency on the account that that immediately preceded the action (e.g., placement of the account for collection).

Failure to update and correct inaccurate information

When furnishers become aware of inaccurate information previously furnished to a CRC, the furnisher must inform the CRC that the previously furnished information is incorrect and promptly update the information.⁴⁰ Examiners found that one or more furnishers violated this requirement in the following ways:

- failing to promptly update the information provided to CRCs after determining that consumer information was not complete or accurate;
- failing to promptly update payment information for charged-off accounts when consumers made payments under payment plans;
- lacking oversight of the furnisher's service providers, who delayed updating incomplete or inaccurate consumer information from a range of 190 days up to 337 days; and
- failing to update reports to reflect delinquencies that had been cured when a consumer had a qualifying deferment during the period of delinquency.

Supervision directed the furnisher(s) to correct these violations to ensure prompt updating and correcting of inaccurate or incomplete information.

3.5 Dispute handling requirements

Notice that dispute is frivolous or irrelevant

Notifications to consumers regarding action, or inaction, taken on disputes by furnishers play an important function in the dispute process. Regulation V requires furnishers to conduct a reasonable investigation of a direct dispute and report the results of the investigation to the consumer.⁴¹ There are exceptions to this requirement, including where a furnisher is unable to investigate the dispute due to the consumer not providing sufficient information, or providing substantially the same information as a previously submitted dispute, when the furnisher can make a reasonable determination that the dispute is frivolous or irrelevant.⁴² In those instances, the furnisher must notify the consumer of the determination no later than five business days after making the determination.⁴³ The notice must include the reasons for such determination

⁴⁰ 15 USC 1681s-2(a)(2). The FCRA requires a person who (A) regularly and in the ordinary course of business furnishes information to one or more CRCs about the person's transactions or experiences with any consumer; and (B) has furnished to a CRC information that the person determines is not complete or accurate, to promptly notify the CRC of that determination and provide to the company any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the company complete and accurate, and to not thereafter furnish to the company any of the information that remains incomplete or inaccurate.

⁴¹ 12 CFR 1022.43(e).

⁴² 12 CFR 1022.43(f)(1).

⁴³ 12 CFR 1022.43(f)(2).

and identify any information required to investigate the disputed information.⁴⁴ In one or more reviews, furnishers decided not to investigate consumer disputes, having determined that certain consumers did not provide sufficient information to investigate the disputed information. When the furnisher(s) made this determination, they failed to provide proper notice to consumers of a reasonable determination that a dispute was frivolous or irrelevant, in violation of Regulation V. Supervision directed furnisher(s) to provide proper notice to consumers of a frivolous or irrelevant dispute determination.

Failure to report the results of direct dispute investigations to consumers

The FCRA and Regulation V require furnishers to complete their investigations of direct disputes received from consumers and to report the results to the consumer before the applicable expiration period.⁴⁵ Examiners found that one or more furnisher(s) conducted an investigation of disputes and sent the consumers response letters, but the letters did not adequately address the actual substance of the disputes. For example, if a consumer disputed that the furnisher(s) had reported the consumer as delinquent during a particular time frame, the furnisher(s) sent a form letter in response that contained only a payment history of the account, including for the time period at issue in the dispute. Supervision determined that the furnisher(s)' policies and procedures did not provide sufficient guidance on the content of resolution letters for disputes and directed the furnisher(s) to evaluate and improve the clarity of dispute resolution letters to ensure the results are more clearly reported to consumers.

Examiners also found that furnisher(s) failed to provide the results of direct dispute investigations to consumers in bankruptcy. Examiners determined that the furnisher(s) had system errors, which misinterpreted the automatic stay provision of the bankruptcy code and suppressed result letters to consumers. Supervision directed furnisher(s) to rectify these issues.

Failure to comply with indirect dispute handling requirements

Furnishers are required, after receiving notice of a dispute of the completeness or accuracy of any information from a CRC, to conduct an investigation with respect to the disputed information.⁴⁶ This includes a review of all relevant information provided by the CRC and reporting the results of the investigation to the CRC within required time periods.⁴⁷ Examiners found that furnisher(s) failed to complete their dispute investigations within the time periods required by the FCRA. Examiners found that furnisher(s), in order to meet the timing requirements, responded to notice of disputes from CRCs by verifying the information when, in

⁴⁴ 12 CFR 1022.43(f)(3).

⁴⁵ 15 USC 1681s-2(a)(8)(E)(iii) and 12 CFR 1022.43(e)(3).

⁴⁶ 15 USC 1681s-2(b)(1)(A).

⁴⁷ 15 USC 1681s-2(b)(1)(B)-(D).

fact, the furnisher(s) had not completed the investigations and had not determined the accuracy of the information disputed by the consumer. Supervision directed furnisher(s) to investigate such disputes in compliance with the FCRA, which requires furnishers to complete an investigation and provide the results of that investigation to the consumer and to the CRCs.

Examiners also found that one or more furnishers failed to conduct an investigation of indirect disputes. Supervision directed furnishers to update and implement dispute handling policies and procedures to ensure disputes are handled in accordance with the requirements of the FCRA.

3.6 Permissible purpose

The FCRA prohibits a person from obtaining a consumer report unless the consumer report is obtained for a purpose authorized by the FCRA.⁴⁸ This prohibition protects the privacy of consumers and prevents the potential negative impact of certain inquiries. Examiners found that one or more institutions obtained consumers' consumer reports by falsely representing to CRCs that those consumers had applied for a loan and that the institution(s) thus had permissible purposes to obtain the reports. Supervision directed the institution(s) to:

- establish and implement effective policies and procedures to ensure the consumer's report is not obtained without a permissible purpose;
- strengthen the monitoring and testing function to respond to agent violations more quickly; and
- report to the board quarterly on the number of complaints and disputes involving consumer reports obtained without a permissible purpose.

4. Conclusion

Supervision's work in the consumer reporting market is ongoing and remains a high priority. Consumer reporting companies and furnishers have an obligation to maintain the accuracy of consumer data, but experience indicates that they lack incentives and under-invest in accuracy. Indeed, these most recent supervisory findings underscore Supervision's concern about the lack of resources that furnishers in particular have devoted to this important function and the resulting violations of law.

We have targeted substantial resources to improve the accuracy of consumer information, and we will continue to do so. We have observed steady progress at consumer reporting companies to improve data governance. However, we also observed that one or more CRCs have not yet finalized the development of data governance programs as required by Supervision, although such improvements are reported to be in the implementation phase. As to furnisher monitoring programs, Supervision found one or more CRCs made significant progress in leveraging

⁴⁸ 15 USC 1681b(f).

furnisher dispute data as part of an accuracy program. But Supervision also observed that one or more programs require additional development and formalization of the corrective actions taken for furnishers that have been identified through the monitoring program. Overall, we are satisfied with the steady pace of progress in addressing weaknesses identified in Supervision's first round of accuracy and dispute resolution reviews and will continue to work with supervised companies to ensure that they invest the necessary resources to solve compliance challenges.

Supervision will continue to conduct reviews at a wide range of furnishers subject to our authority and expects furnishers to evaluate carefully their entire operations as they relate to their furnishing practices in light of the FCRA and Regulation V's requirements. We are encouraged by some positive trends. For example, at one or more large furnishers, Supervision observed a special emphasis on evaluating, on an enterprise-wide basis, the furnisher's FCRA compliance management system. In addition, furnishers(s) proactively established action plans for recordkeeping and taking inventory of dispute resolution letters that they will more clearly communicate the results of investigations to consumers.

Supervision will continue to prioritize new and existing FCRA areas based on insights from a robust number of data sources that help us to identify areas where the risk of consumer harm is greatest.