

FACT Act Guidelines Affect Credit Reports

The federal regulatory agencies¹ have recently joined together and issued an Advance Notice of Proposed Rulemaking (ANPR related to Section 312 of the *Fair and Accurate Credit Transactions Act*) (FACT Act). This particular section requires the establishment of guidelines for use by persons that furnish information to consumer reporting agencies (furnishers) regarding the accuracy and integrity of the consumer information that they report to the agencies. It also prescribes that regulations shall be developed to require furnishers to establish reasonable policies and procedures for implementing the guidelines. One other requirement of Section 312 is the development of guidance on when to reinvestigate a dispute concerning the accuracy of information in the report based on a consumer's request.

Background

In the U.S., the consumer reporting system is based largely on the voluntary reporting of information by creditors and others to nationwide consumer reporting agencies that collect and maintain consumer information. Not every entity reports in exactly the same way. Some report only negative information while others report both positive and negative information. Furnishers of information include banks, credit unions, finance companies, employers, insurance companies, doctors and hospitals, debt collectors, and landlords.

It is extremely critical that the information be accurate since it is widely used to determine whether, and in some cases on what terms, consumers may be eligible for credit insurance, employment, rental housing, and important products, services, or benefits. After several studies, a number of potential issues have been identified that may affect the accuracy of consumer report information, including stale account information, furnishing only negative information, inaccurate or incomplete public record data, inaccurate or incomplete collection account data and unreported credit limits. These kinds of problems can lower a consumer's credit score, particularly those who are new to the credit system, have very little credit, or have relatively low credit scores.

As it exists currently, the *Fair Credit Reporting Act* (FCRA) contains a number of provisions designed to enhance the accuracy and integrity of data in consumer reports, including the provisions to be implemented through the guidelines presented in this ANPR. It also prohibits any consumer reporting agency from reporting information if the person knows or has reasonable cause to believe that the information is inaccurate.

¹ Federal regulatory agencies include the Office of the Comptroller of the Currency, the Federal Reserve System, the Federal Deposit Insurance Corporation, the Department of the Treasury, the National Credit Union Administration, and the Federal Trade Commission.

ANPR Requirements

When the FACT Act was implemented in 2003, it amended the FCRA to enhance the ability of consumers to combat identity theft, increase the accuracy of consumer reports, restrict the use of medical information in credit eligibility determinations, and allow consumers to exercise greater control regarding the type and amount of solicitations they receive. Section 312(a) of the FACT Act adds a new subsection (e) to Section 623 of the FCRA. The Agencies will be working together to ensure that regulations published by each of them are consistent and comparable. These will be related to guidelines for use by each furnisher of information regarding the accuracy and integrity of the consumer information provided to the reporting agencies.

Section 312(c) of the FACT Act adds a new sub-paragraph (8) to Section 623(a) of the FCRA. It directs the agencies to jointly prescribe regulations that identify the circumstances in which a furnisher is required to reinvestigate a dispute when the consumer makes a direct request to do so.

The ANPR outlines several issues regarding both these topics on which it would like to have comments. The comments are due by May 22. The entire ANPR may be viewed at <http://a257.g.akamaitech.net/7/257/2422/01jan20061800/edocket.access.gpo.gov/2006/pdf/06-2758.pdf>.