

CFPB Critical of Deleting Tradelines

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The Safe Harbor: Debt Collection Law Update by Aylix Jensen (May 2022 edition)

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Aylix K. Jensen offers analysis and insights for the debt collection industry in her monthly newsletter, *The Safe Harbor: Debt Collection Law Update by Aylix Jensen*. This monthly newsletter provides an update of changes and developments in the law that impact the debt collection industry. It highlights new debt collection laws and practices, discusses what these may mean for the collection industry, and provides tips to ensure compliance. This article is featured in the May 2022 edition.

On May 2, 2022, the CFPB issued its Supervisory Highlights for spring 2022 (the “spring 2022 Report”), which highlights legal violations identified by the CFPB’s examinations between July 2021 and December 2021. The findings in the spring 2022 Report cover the areas of auto servicing, consumer reporting, credit card account management, debt collection, deposits, mortgage origination, prepaid accounts, remittances, and student loan servicing. The spring 2022 Report also summarizes recent developments in the CFPB’s supervision program and remedial actions.

Focusing strictly on the area of consumer reporting, the CFPB notes that examiners have found deficiencies in credit reporting companies’ compliance with FCRA dispute investigation requirements and furnisher compliance with FCRA and Regulation V accuracy and dispute investigation requirements. The CFPB notes that in several reviews of credit reporting companies (“CRCs”), examiners found that they failed to conduct reasonable investigations of disputes. Specifically, CRCs deleted thousands of disputed tradelines rather than resolving disputes consistent with the investigation conducted by the furnisher and failed to review and consider all relevant information submitted by the consumer in support of their disputes. In addition, examiners found that CRCs failed to timely notify furnishers after receipt of a dispute and to timely and accurately notify consumers of the results of a dispute reinvestigation.

The CFPB also discusses several deficiencies with regard to credit card furnishers, deposit furnishers, and auto furnishers. The CFPB advises that credit card furnishers erroneously applied Regulation V’s “frivolous” designation to indirect disputes when the FCRA does not allow furnishers to deem indirect disputes as “frivolous.” The CFPB further advises that credit card furnishers sent incorrect indirect dispute investigation results to CRCs. Moreover, the CFPB notes that credit card furnishers failed to communicate the results of its investigations in response letters to direct disputes and failed to send updating or correcting information to CRCs after making a determination that the reported information was incomplete or inaccurate.

Lastly, the CFPB identifies violations of Regulation V’s requirement that all furnishers establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers. The CFPB emphasizes that furnishers must consider and



incorporate, as appropriate, the guidelines of Appendix E to Regulation V when developing their policies and procedures, which address key business functions, such as record retention, training, third-party oversight, and receipt of feedback from CRCs and others. The CFPB identifies the following violations of the Regulation V requirement for reasonable written policies and procedures with respect to credit card furnishers:

- Failure to specify how particular data fields, such as the date of first delinquency, should be populated when furnishing information about credit card accounts.
- Failure to provide for the retention of records for a reasonable period of time to substantiate the accuracy of consumer information furnished to CRCs.
- Failure to perform account level analyses to determine which accounts should be reported in bankruptcy status after a consumer informs the furnisher of a bankruptcy filing.

Given that the CFPB included similar findings relating to credit reporting in its summer 2021 edition of Supervisory Highlights, it is apparent that the CFPB has a continuing interest in furnishers' compliance with credit reporting, as well as their written policies and procedures. Therefore, it is imperative that furnishers re-review written credit reporting policies and procedures and ensure that such policies are being followed.

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Practice Areas

Financial Services

