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July 22, 2022

**To:** Clients and Friends

**From:** David F. Dulock

**Subject:** CFPB Advisory Opinion “Fair Credit Reporting; Permissible Purposes for Furnishing, Using, and Obtaining Consumer Reports”

In the July 12, 2022, issue of the *Federal Register* (87 FR 41243) the CFPB published the above Advisory Opinion (the “[Opinion](#)”) to “outline certain obligations of consumer reporting agencies and consumer report users under section 604 [15 U.S.C. §1681b] of the Fair Credit Reporting Act (FCRA).” The Opinion is effective as of July 12, 2022.

The below quotations from the Advisory Opinion summarize what we consider are its major points:

“[T]he permissible purposes identified in FCRA section 604(a)(3) [for furnishing a consumer report] are consumer specific [that is, they apply only with respect to the consumer who is the subject of the user’s request], and it affirms that a consumer reporting agency may not provide a consumer report to a user under FCRA section 604(a)(3) unless it has reason to believe that all the consumer report information it includes pertains to the consumer who is the subject of the user’s request.”

“FCRA section 604 . . . identifies an exclusive list of ‘permissible purposes’ for which consumer reporting agencies may provide consumer reports, including in accordance with the written instructions of the consumer to whom the report relates and for purposes relating to credit, employment, and insurance.”

“FCRA section 604(f) strictly prohibits a person who uses or obtains a consumer report from doing so without a permissible purpose [under FCRA section 604] certified in accordance with FCRA section 607 [15 U.S.C. §1681e] by a prospective user of the report through a general or specific certification.”

“FCRA section 607(a) requires that [e]very consumer reporting agency shall maintain reasonable procedures designed to . . . limit the furnishing of consumer reports to the purposes listed under section 604.”

“FCRA section 619 [15 U.S.C. 1681q] imposes criminal liability on any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses.”

“[T]he Bureau is issuing the advisory opinion to affirm that consumer reporting agencies may not provide a consumer report pursuant to FCRA section 604(a) under any circumstance not expressly permitted by [that] section.”

“A consumer reporting company may not provide a consumer report under FCRA section 604(a)(3) unless it has reason to believe that the user has a permissible purpose with respect to the consumer about whom the report is requested. Accordingly, a consumer reporting company may not provide a consumer report under FCRA section 604(a)(3) unless it has reason to believe that all of the consumer report information it includes pertains to the consumer who is the subject of the user’s request.”

(2 pages)

“[C]onsumer reporting agencies violate the permissible purpose provisions if they provide consumer reports on multiple consumers (e.g., consumers with the same name) in response to a request where the user only has a permissible purpose to obtain a report on a single individual.” The Advisory Opinion refers to this as “name-only matching” because it is obtaining “information from sources that do not have or use identifying information other than consumer names, and they include such information in consumer reports without taking additional steps to match the information to the consumer who is the subject of the report.”

“Disclaimers [by a consumer reporting agency to the user] will not cure a failure to have a reason to believe that a user has a permissible purpose for a consumer report provided pursuant to FCRA section 604(a)(3). A disclaimer does not change the fact that the consumer reporting company has failed to satisfy the requirements of 604(a)(3) and has provided a consumer report about a consumer to a person lacking a permissible purpose with respect to that consumer.”

“The Bureau interprets FCRA section 604(f) to provide that consumer report users are strictly prohibited from using or obtaining consumer reports without a permissible purpose.” “Pursuant to FCRA sections 616 and 617, a person is civilly liable to a consumer for violations of section 604(f) if they have willfully or negligently failed to comply with the requirement. 15 U.S.C. 1681n, 1681o.”

“Section C.1 of this advisory opinion ‘applies to all ‘consumer reporting agencies,’ as that term is defined in FCRA section 603(f). Section C.2 of this advisory opinion applies ‘to all persons that obtain or use, or seek to obtain or use, ‘consumer reports,’ as that term is defined in FCRA section 603(d).’ [15 U.S.C. §1681a]

Recipients of this memorandum should read the Advisory Opinion and not rely exclusively on this summary.

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