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To: Clients and Friends

From: David F. Dulock

Subject: Consumer Financial Protection Bureau (CFPB) Warns Lenders Again of Duty To Investigate Consumer Credit Report Disputes - CFPB Bulletin 2014-01

On February 27, 2014, the CFPB released Bulletin 2014-01 reminding those persons who furnish consumer information to credit reporting agencies of the person's duty under the Fair Credit Reporting Act (FCRA) to fully investigate consumer disputes referred to the person by a consumer report agency. Apparently, the CFPB believes that furnishers of credit information to credit reporting agencies did not get the message in the September 4, 2013 CFPB Bulletin 2013-09 on the same subject (see this firm's 9-05-13 memorandum on CFPB Bulletin 2013-09 on our website www.bmandg.com under Articles). In this current Bulletin 2014-01 the CFPB emphasizes that it is the furnisher's obligation under the FCRA to investigate disputed information referred to them and it is not sufficient under the requirements of the FCRA to simply direct the consumer reporting agency to delete the item without first conducting an investigation.

For your convenience, the text of CFPB Bulletin 2014-01 is reprinted below:

CFPB Bulletin 2014-01

Date: February 27, 2014

Subject: The FCRA's requirement that furnishers conduct investigations of disputed information

Debt buyers, debt collectors, and others who furnish information to credit reporting agencies have a variety of obligations under the Fair Credit Reporting Act (FCRA)¹ and Regulation V². The Consumer Financial Protection Bureau (CFPB) issues this bulletin³ to highlight one of those obligations – the obligation of furnishers to investigate disputed information in a consumer report. The CFPB is concerned that, when a furnisher responds to a consumer's dispute, it may, without conducting an investigation, simply direct the consumer reporting agency (CRA) to delete the item it has furnished.

Investigations of disputes are important because they provide a critical check on the accuracy of furnished items. Not only do they prompt a furnisher to reconsider information that a consumer has identified as incorrect, investigations can also help a furnisher identify problems with respect to the general accuracy of the information that it furnishes to CRAs. That is, when the furnisher conducts an investigation, it may learn of a systemic problem, thereby benefiting not only the consumer who raised the dispute, but also other similarly situated consumers who did not submit disputes. In addition, if a furnisher does not conduct investigations, consumers can be harmed because the furnisher may not carry out additional steps that the FCRA

calls for with respect to a dispute. These include the obligation of a furnisher to provide notice of information found to be inaccurate to all consumer reporting agencies to which it reported.

For purposes of this bulletin, a furnisher is an entity that provides information that relates to consumers to a CRA for inclusion in consumer reports.⁴ If a consumer submits a dispute to a CRA regarding an account in a consumer report and the CRA provides the furnisher of that account with notice of that dispute, the furnisher should investigate the dispute, and, if appropriate, direct the CRA to correct or delete the disputed information.⁵ Similarly, if the consumer submits a direct dispute notice to the furnisher, the furnisher generally should conduct an investigation of the dispute and then, based on the results of the investigation, provide appropriate instructions to the CRA.⁶

A furnisher should not assume that it ceases to be a furnisher with respect to an item that a consumer disputes simply because it directs the CRA to delete that item. Also, whether an investigation is reasonable depends on the circumstances, but furnishers should not assume that simply deleting that item will generally constitute a reasonable investigation.

The CFPB will continue to monitor furnishers' compliance with the FCRA regarding consumer disputes of information they have furnished to CRAs. Furnishers should take immediate steps to ensure they are fulfilling their obligations under the law.

If the CFPB determines that a furnisher has engaged in any acts or practices that violate the FCRA or other Federal consumer financial laws and regulations, it will take appropriate supervisory and enforcement actions to address violations and seek all appropriate corrective measures, including remediation of harm to consumers.

¹ 15 U.S.C. §§ 1681 – 1681x.

² 12 C.F.R. Part 1022.

³ On September 4, 2013, the CFPB issued a bulletin discussing a furnisher's obligation to review all relevant information it receives from a consumer reporting agency in connection with a dispute. CFPB Bulletin 2013-09.

⁴ 12 C.F.R. § 1022.41(c).

⁵ 15 U.S.C. § 1681s-2(b)(1).

⁶ 12 C.F.R. § 1022.43(e). There are, however, certain disputes that a furnisher need not investigate. *See, e.g.*, 12 C.F.R. § 1022.43(f) (frivolous or irrelevant disputes); 12 C.F.R. § 1022.43(b) (other exceptions).

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