

# MCCATHERN

## August 2013 Banking and Mortgage Regulatory Update

For monthly updates on compliance issues email [mortgage@mccathernlaw.com](mailto:mortgage@mccathernlaw.com) with your request.

One of the Dodd-Frank Act's guiding principles is to protect consumers from unscrupulous and/or harmful practices. This protection extends to safeguarding consumers' credit reports from errors and incomplete credit information that could negatively affect a consumer's credit score. This monthly update will discuss the recent CFPB bulletin that addresses a "furnisher's" obligations to review disputes provided by credit reporting agencies. A "furnisher" of consumers' credit information includes lenders and servicers; therefore the latest CFPB bulletin has far-reaching impact.

A recent report published by the Federal Trade Commission estimated that one in five consumers had a mistake on their credit report, and an additional five percent had serious errors that could negatively impact their credit score in such a way that they could end up paying more to obtain credit. Mistakes could be as benign as a misspelled name or as serious as erroneous information stating that the borrower has outstanding and delinquent balances when in fact the borrower is current on their payments.

In an effort to reduce the potentially damaging effects of inaccurate credit reporting, the CFPB released a bulletin highlighting the Fair Credit Reporting Act's (FRCA) requirement that a furnisher of credit information conduct an investigation with respect to disputed information. A part of any investigation conducted pursuant to FRCA guidelines requires the furnisher to have reasonable systems and technology in place to receive and process notices of disputes and information regarding disputes.

The investigation obligation requires furnishers to review "all relevant information" regarding the dispute. The CFPB expects each furnisher to comply with the FRCA by doing the following:

- 1) Maintaining a system reasonably capable of receiving from credit reporting agencies information regarding disputes, including supporting documentation;
- 2) Conducting an investigation of the disputed information including reviewing:
  - a) "all relevant information" forwarded by the reporting agency; and
  - b) the furnisher's own information with respect to the dispute;
- 3) Reporting the results of the investigation to the reporting agency that sent the dispute;
- 4) Providing corrected information to every nationwide credit reporting agency that received the information if the information is inaccurate or incomplete; and
- 5) Modifying or deleting the disputed information, or permanently blocking the reporting of the information if the information is incomplete or inaccurate, or cannot be verified.

This goes hand-in-hand with the "McCathern Standard" distributed in June's update, which set forth key policies and procedures recommended for all entities affected by Dodd-Frank's reach. Implementing the tenets highlighted in the "McCathern Standard" into your business will help reduce the risk of violations and will provide a more efficient approach to handling consumer issues. The CFPB is actively monitoring complaints received by consumers and will determine appropriate actions needed, including audits and even remediation of harm to consumers. Therefore, it is extremely important to get your business compliant and avoid the potential negative consequences of violating Dodd-Frank's regulations.

*This update is not to be considered an offering of legal advice and does not constitute an attorney-client relationship. If you are interested in a more specific and tailored analysis of the compliance-related issues associated with the Dodd-Frank Act, and how it affects your business, please contact Arnold Shokouhi at 214.741.2662.*