

Regulatory Compliance News



MOUNTAIN WEST
Credit Union Association

May 6, 2016

Compliance News

Consumer Reports: What Information Furnishers Need to Know

The [Fair Credit Reporting Act](#) (FCRA) is designed to protect the privacy of consumer report information — sometimes informally called “credit reports” — and to guarantee that information supplied by consumer reporting agencies (CRAs) is as accurate as possible.

If you report information about consumers to a CRA — like a credit bureau, tenant screening company, check verification service, or a medical information service — you have legal obligations under the FCRA’s Furnisher Rule.

Your responsibilities include:

- Furnishing information that is accurate and complete, and
- Investigating consumer disputes about the accuracy of information you provide.

The Federal Trade Commission, the Consumer Financial Protection Bureau, and the federal banking agencies have each published a Furnisher Rule. The rules are identical in substance. The [FTC’s Rule](#) is summarized here.

Accuracy

When you provide information to a CRA, you have obligations under the [FCRA](#) to ensure the accuracy of the information you furnish. As a rule, it’s illegal to report information that you know or believe is inaccurate. You have “reasonable cause to believe” that information is inaccurate if you have knowledge, other than allegations from the consumer that would lead a reasonable person to doubt the accuracy of the information. [FCRA Section 623\(a\)\(1\)\(A\)](#) You may be exempt from this requirement if you give an address for consumers to report inaccurate information, but you cannot, under any circumstances, report information the consumer has told you is inaccurate if it is, in fact, inaccurate. [FCRA Section 623\(a\)\(1\)\(C\)](#)

Guidelines for Policies and Procedures

You must establish and implement written policies and procedures regarding the accuracy and integrity of information you furnish to a CRA. Guidelines are in [Appendix A to Furnisher Rule Part 660](#). Read the Appendix; the information here is just a sample.

Your policies and procedures:

- Must be appropriate to the nature, size, complexity, and scope of your activities;
- Must be reviewed periodically and updated, as necessary;
- Should ensure that information provided to a CRA is for the right person, and reflects the terms of the account and the consumer's performance

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[BSA Compliance Officer Forum](#)

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on the account;

- Require maintenance of records for a reasonable amount of time;
- Establish internal controls for the accuracy and integrity of information, such as through random sampling;
- [Prevent re-aging](#) (inaccurately changing the date of first delinquency on a consumer's account to a later date) and duplicative reporting, particularly following portfolio acquisitions or sales, mergers, and other transfers; and
- Require updating of furnished information where necessary.

Information should:

- Be substantiated by your records when it is furnished;
- Include consumer identifiers, like name(s), date of birth, Social Security number, telephone number(s), or address(es); and
- Be furnished in a standardized form and specify the time period it pertains to.

Correct and Update Information

If you furnish information to a CRA on a regular basis and determine that any information you provided is inaccurate or incomplete, you must promptly notify the CRA and provide corrections or additions. Going forward, you must furnish only the correct information to the CRA. [FCRA 623\(a\)\(2\)\(B\)](#)

Furnishing Specific Items

The FCRA requires that if you furnish any information to a CRA, you must include any of the following items that are applicable to you.

Credit Limits — Usually, you must include a consumer's credit limit among the information you furnish to a CRA. [Appendix A\(I\)](#)

Disputed Information — Once a consumer disputes information, you may not report that information to a CRA without telling the CRA that the information is in dispute. [FCRA 623\(a\)\(3\)](#)

Closed Accounts — If you furnish information to a CRA on a regular basis, you must notify the CRA that a consumer has voluntarily closed an account the next time you send information that would normally include that account. This is important because some users of information may interpret a closed account as an indicator of bad credit unless you clearly disclose that the consumer, not the creditor, closed the account. [FCRA 623\(a\)\(4\)](#)

Delinquent Accounts — When you refer an account for collection and notify a CRA that you have done so, you also must report the date of delinquency to the CRA within 90 days. The date of delinquency is the month and year the consumer's delinquency resulting in the referral began, see the examples below. [FCRA 623\(a\)\(5\)\(A\)](#)

If you are a debt collector furnishing information to a CRA about the accounts of a creditor, you must report the date of delinquency given to you by the creditor. [FCRA 623\(a\)\(5\)\(A\)](#) This "date of delinquency" determines how long the debt can be reported on a consumer's credit report. Generally, a CRA may report a delinquent debt for seven years from the date of delinquency. If the debt was discharged in bankruptcy, however, a CRA may report it for 10 years.

If the creditor didn't report the date of delinquency, you have two options:

Lending, and Operations.

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InfoSight Highlight

Fair Credit Reporting Act (FCRA)

The purpose of the Fair Credit Reporting Act ("FCRA" or "Act") is to ensure fair and accurate reporting of consumer credit information. It regulates "consumer reporting agencies," including credit bureaus; restricts the use of consumer reports to their legitimate purposes; prohibits the dissemination of outdated credit information; and requires disclosure to consumers and employees when adverse action is taken as the result of credit reports or other consumer information.

The FCRA applies any time a credit report is used as a factor in establishing a member's eligibility for or in making changes to the member's consumer credit, share or deposit accounts and other services. It also applies when credit reports are used in hiring or other employment decisions.

The FCRA does not apply to reports about business, commercial or professional entities, reports about a credit union's own experiences with a consumer, or reports by anyone based solely on their own experience with a consumer.

The Federal Trade Commission enforces compliance with the FCRA by consumer reporting agencies and state-chartered credit unions. The Bureau of Consumer Financial Protection (CFPB) is charged with enforcing the provisions of the Act (12 CFR 1022).

[InfoSight \(AZ, CO, WY\)](#)

Advocacy Highlight

CFPB to Reopen TRID/KBYO rules in response to CUNA Advocacy

In response to months of advocacy, the [CFPB sent a letter](#) to industry trade associations, including CUNA, to announce that it will initiate a rulemaking in late July

- You may establish and follow reasonable procedures to determine the date from the original creditor or another reliable source, or
- If you can't determine the date, you may establish and follow reasonable procedures to ensure that the reported date of delinquency is a date before the account was referred to collection or charged off. [FCRA 623\(a\)\(5\)\(B\)](#)

Click [here](#) for more on this topic, including how to handle disputes related to member information being reported.

Source: FTC.gov

Are Your Members Suddenly Interested in Gun Trusts?

What is a gun trust? It's a trust created to receive (or purchase) and manage certain federally restricted, but legal-to-own, weapons, referred to as "Title II" firearms. Title II firearms, include, for example, machine guns, sawed-off shotguns, silencers, bombs, grenades, rocket launchers, and other especially lethal weapons. The trustees and beneficiaries of the gun trust may use the firearms owned by the trust under conditions described in the trust document, as well as conditions required by federal, state, and local firearms laws.

What are the benefits of a gun trust? Like any trust there are estate planning benefits, but in the case of gun trusts there are also benefits when transferring ownership of these firearms. Transferring these weapons without complying with all of the National Firearms Act requirements can result in serious fines, jail time or both. A trust may help with the compliance of these strict regulations.

In order to transfer a Title II firearm, the weapon must be registered with the National Firearms Registration and Transfer Record. Under existing rules, if an individual wants to transfer a firearm, he or she must:

- Register an application with the state;
- Complete a transfer form;
- Attach a photograph and two sets of fingerprints for an extensive background check;
- Purchase a \$200 tax stamp; and
- Get the signature of a Chief Law Enforcement Officer (CLEO).

In contrast, when a gun trust is transferring a Title II firearm, the trust must:

- Complete a transfer form;
- Pay a \$200 tax stamp, and
- Provide proof of the existence of the trust.

Effective July 13, 2016, "responsible persons" of trusts will be required to complete a specified form and submit photographs and fingerprints when filing an application to transfer this type of firearm. These documents must also be forwarded to the local CLEO (the requirement for the CLEO's signature has been eliminated.)

Warning to members: There are a lot of do-it-yourself trust documents online and gun dealers advertise gun trust services, as well. With violations of these regulations possibly resulting in fines of up to \$10,000 and up to ten years in prison, it's important that your member consult legal counsel to ensure their gun trust is set up correctly.

For more information you can review [DOJ's recent regulation here](#).

Source: CUNA Compliance Blog

2016 to address many of the ongoing issues and concerns over the implementation of the TILA/RESPA Integrated Disclosures (TRID) or Know Before You Owe (KBYO) rules.

CUNA has had ongoing discussions with the CFPB since the TRID rule became effective on October 3, 2015, and most recently outlined numerous concerns [in a letter to](#) Representatives Blaine Luetkemeyer and Randy Negebauer. In that letter, CUNA recommended numerous areas in need of clarification by the CFPB, especially the need to clearly allocate liability and responsibility for the various roles in the closing process, and ensure a properly functioning secondary market.

The CFPB has been reluctant to issue written guidance or amend its existing TRID rule. Until now, it has simply continued to urge the industry to attempt to "work out" the issues, despite outcries from CUNA and the rest of the financial services industry. CUNA is pleased to see that the CFPB is now acknowledging the immense and complicated compliance burden that TRID is placing on credit unions, and beginning the process of amending it.

CUNA will continue to work with the CFPB as it moves forward with this amendment process to ensure that it brings proper relief for credit unions.

Source: CUNA

CUNA Advocacy Update

The Regulatory Advocacy Report is now combined with CUNA's Legislative Update into a comprehensive CUNA Advocacy Update. The new [Advocacy Update](#) is published at the beginning of every week, and keeps you on top of the most important changes in Washington for credit unions--and what CUNA is doing to monitor, analyze, and influence government agencies and federal law.

Prior CUNA Regulatory Advocacy Reports have been archived and are available [here](#).



Compliance Calendar

April 22

- 5300 Call Report Due to NCUA

May 2

- Credit Card Quarterly Submission Due to CFPB



Training & Events Calendar

May 11

Webinar: [Business Accounts: Who is Authorized to Open, Close, Transact?](#)

May 16

Webinar: [Examining Complex TRID Issues, Part 2: Closing Disclosure, Tolerances & the Good Faith Analysis](#)

May 17

Webinar: [Wire Transfer Compliance, Including International Remittances](#)

May 24

Webinar: [Understanding & Managing the CFPB Complaint Process](#)

May 25

Webinar: [Developing Quality & Efficiency in Your IT Audit](#)

June 2

Webinar: [Best Practices for Member Business Lending](#)

June 8

[Financial Strategies Seminar - Denver](#)

June 9

Webinar: [FFIEC Cyber Security Risk Assessments: Recent Findings & Recommended Actions](#)

June 20

Webinar: [Understanding FCRA Permissible Purposes in Obtaining Credit Reports](#)

June 22

Webinar: [Product Terms Part 1 – Modifying Existing Produce Terms & Fees, Including Timing, Content & Requirements for Change-in-Terms Notices](#)

June 30

Webinar: [Compliance Officer Training – Risk Assessments, Monitoring & Testing](#)

May 30

- Memorial Day – Federal Holiday

June 30

- PCI-SSL/TLS Can No Longer Be Used as a Security Control

July 4

- Independence Day – Federal Holiday

July 22

- 5300 Call Report Due to NCUA

July 31

- [Credit Card Quarterly Submission Due to CFPB](#)

October 31

- [Credit Card Quarterly Submission Due to CFPB](#)

Effective Dates New and Revised Rules

May 13, 2016~NCUA

[Personal Guarantees - MBL](#)

July 1, 2016~DoEd

[Program Integrity and Improvement](#)

September 23, 2016~NACHA

[Same-day ACH \(NACHA\) – Phase 1](#)

October 3, 2016~DoD

[Limitations on Terms of Consumer Credit Extended to Service Members & Dependents](#)

January 1, 2017~CFPB

[HMDA – Regulation C](#)

January 1, 2017~NCUA

[Member Business Loan Rule](#)

April 10, 2017~DOL

[Fiduciary](#)

September 15, 2017~NACHA

[Same-day ACH \(NACHA\) – Phase 2](#)

CUNA Comment Calls – Due Dates on Proposed Rules

April 29, 2016~Financial Literacy & Education Commission

[National Strategy for Financial Literacy Update](#)

June 20, 2016~NCUA

[NCUA Occupancy Rule](#)

Please respond to [Mark Robey](#) with any questions or concerns regarding content of this newsletter.

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