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## Agencies Release Rules Regulating Furnisher Obligations Under FACT Act Imposing Major New Duties

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The federal banking agencies and the Federal Trade Commission (Agencies) have developed rules regulating the accuracy and integrity of consumer information that furnishers of such information provide to consumer reporting agencies (CRAs). The rules address policies and procedures furnishers must adopt to ensure accuracy and integrity of consumer information, as well as furnishers' duty to investigate disputes concerning the accuracy of information contained in a consumer report when requested by a consumer. Though the guidelines have not yet been published in the Federal Register, they were recently released by the National Credit Union Administration, and can be viewed [here](#). The regulations will be effective approximately one year from the date they are published in the Federal Register. Assuming the rules are published this month, their effective date will be July 1, 2010.

### *Direct Dispute Rule*

In the past, furnishers of information to consumer reporting agencies were only required to respond to consumer disputes that had been submitted directly to CRAs which, in turn, passed such disputes onto furnishers, typically through an automated electronic dispute system. Once the Direct

Dispute Rule takes effect, furnishers will also have to respond to most disputes submitted directly to the furnisher by consumers. Section 312 of the FACT Act required the Agencies to issue regulations identifying the circumstances under which a furnisher must reinvestigate disputes concerning the accuracy of information contained in a consumer report based on a direct request from a consumer. These new regulations implement this requirement by requiring furnishers to conduct a reasonable investigation of virtually all disputes by consumers concerning the accuracy of information provided by the furnisher to CRAs, including reviewing all relevant information provided by consumers with their dispute notices. Furnishers are not required to respond to a dispute unless it is sent to an address specified by the furnisher. If the furnisher fails to specify an address, the dispute may be directed to any address of the furnisher. The rule requires that the consumer provide certain information to initiate a dispute. Furnishers must generally complete their investigation within 30 days. Furnishers are not required to conduct investigations of disputes that they determine to be frivolous or irrelevant.

### *Accuracy and Integrity Rule*

Section 312 of the FACT Act amends section 623 of the Fair Credit Reporting Act (FCRA) to require the Agencies to issue guidelines regarding the accuracy and integrity of information furnished to CRAs and to prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines. To implement this requirement, the new regulations require each furnisher to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information furnished to CRAs. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

In developing policies and procedures, each furnisher must consider, and implement as appropriate, specified guidelines. First, the policies and procedures should reflect the types of business activities in which the furnisher engages, the nature and frequency of the information the furnisher provides to CRAs, and the technology used by the furnisher to provide information to CRAs. To ensure accuracy, the policies and procedures should be reasonably designed to identify the appropriate consumer, reflect terms and liability, and reflect the consumer's performance and other conduct. To ensure integrity of information, the furnisher should substantiate the information provided to CRAs and furnish information in a form and manner designed to minimize the likelihood that it may be incorrectly reflected in a consumer report. The furnisher should identify practices or activities that can compromise the accuracy or integrity of information furnished to CRAs and consider whether new practices might better protect the accuracy or integrity of information. The guidelines list thirteen specific components that furnishers should address in developing their policies and procedures, including standard data reporting formats, retention periods, internal controls, training, and self-evaluation. Each furnisher must review the policies and procedures required by the rules periodically and update them as necessary to ensure their continued effectiveness.

At the same time, the Agencies are issuing an advanced notice of proposed rulemaking, only released to date by the NCUA, which can be viewed [here](#). The Final Rule regarding accuracy specifies certain items that must be reported in order for information to have "integrity," including credit limits. The Agencies now seek comment as to whether account opening date must also be provided to promote the integrity of the information in credit reports and whether furnishers should provide any other types of

information to a consumer reporting agency to promote integrity.

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