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May 22, 2006

Robert Feldman, Executive Secretary
Attention: Comments
FDIC
550 17th Street, NW.
Washington, DC 20429
RIN 3084-AA94

Office of the Comptroller of the Currency
250 E Street, SW., Mailstop 1-5
Washington, DC 20219
Docket Number 06-04

Regulations Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552
Attention: No. 2006-06

Jennifer J. Johnson, Secretary
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW.
Washington, DC 20551
Docket Number R—1250

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to offer comments on the Interagency Advance Notice of Proposed Rulemaking: Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies.

Background

The Fair and Accurate Credit Transactions Act of 2003 (FACTA) amended the Fair Credit Reporting Act. Among other changes, FACTA requires the banking agencies to issue guidelines for use by furnishers of credit regarding the accuracy and integrity of information that they provide to consumer reporting agencies. It further requires the

[1] *The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.*

With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 265,000 Americans, ICBA members hold more than $876 billion in assets $692 billion in deposits, and more than $589 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

agencies to prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the guidelines. The new law also requires the agencies to issue regulations identifying the circumstances under which a furnisher must reinvestigate disputes about the accuracy of information contained in consumer reports based on a direct request from a consumer.

The United States consumer reporting system is based primarily on information creditors submit to the large credit bureaus that collect, process and distribute the data. Each of the major national credit bureaus, TransUnion, Equifax and Experian, all maintain databases that contain detailed information about consumers' transactions. Most of this information is provided voluntarily by furnishers. However, not all furnishers provide information, some only provide negative information and others only provide information to one credit bureau. The banking agencies note that the accuracy of consumer reports is extremely important because they are used to determine consumer eligibility for credit, insurance, employment, rental housing, and other important products, services or benefits. Errors could lower a consumer's credit score, decrease credit availability, or increase the cost of credit for consumers.

Section 611 of the Fair Credit Reporting Act prohibits a person from furnishing information to a credit bureau if the person knows or has reason to know that the information is inaccurate. If a furnisher is notified by a credit bureau that information in a credit report has been disputed, the furnisher must investigate the dispute, review all relevant information provided by the credit bureau, provide corrected information and promptly modify, delete or block an item that is inaccurate or cannot be verified. Section 312 of FACTA requires the agencies to issue guidelines for furnishers to use on the accuracy and integrity of information they provide to credit bureaus. In developing these guidelines, the agencies must identify patterns, practices and other activities that might compromise the data furnished; review the methods used to furnish information to credit bureaus; determine whether furnishers maintain and enforce policies to assure the accuracy and integrity of information; and examine how furnishers conduct investigations of disputed information.

Summary of ICBA Position

ICBA believes that the information furnished to consumer reporting agencies is generally accurate and that community banks use appropriate procedures to ensure the information they provide is accurate. In addition, community banks take any and all steps necessary to correct data that may be inaccurate in a timely fashion. However, in their experience, community banks attribute most inaccurate data to the credit reporting agency or another lender.

ICBA suggests that all furnishers have a comprehensive plan to protect computer systems, ensure that employees are properly trained, and have dual controls in place to ensure the data is accurate. Additionally, ICBA believes there are certain benefits to receiving disputes directly from the customer because it increases the speed at which disputes are resolved and the ability of the community bank to service its customer.

However, for community banks with a limited staff, working directly with customers could be time consuming and difficult.

General Comments

When using credit report data, community banks have encountered inaccurate information. In their experience, most errors that occur can be attributed to a credit reporting agency or another lender. If that happens, community banks explain to their customer the proper steps to take and generally refer him/her to the credit reporting agency to correct the error. However, if the error was caused by the bank, community banks report they will do everything they can to ensure the error is corrected in a timely fashion.

Ensuring the Accuracy and Integrity of Information on Credit Reports

Community banks report using a variety of methods to furnish data to consumer reporting agencies. Generally, community banks report information monthly electronically using magnetic tape the bank generates or through third-party processors. The data reported includes both positive and negative information and usually includes the bank's name, account number, month and year the account was opened, high credit balance, current balance, last activity date, monthly payment amount, delinquency frequency, and number of payments made.

Community bankers take great pains to ensure the information provided to credit reporting agencies is accurate. Because the information is taken from the bank's account system and sent directly to the credit bureau, community banks report encountering few disputes on their data. For example, loan information is spot checked by an employee before the information is sent to the credit bureau to ensure accuracy. This process compares information such as name, address, social security number, dates, and outstanding balances on the automated system with the original input data on a selection of accounts. In addition, banks and their loan processors perform daily, weekly and monthly audits of the information to ensure it is correct and accurate.

Current Steps to Ensure Accuracy

When community banks receive a notice from a credit bureau that information it reported was incorrect or has been disputed, they take appropriate steps to verify the information and, where necessary, ensure the incorrect data is corrected immediately. For example, when a dispute notice is received, it is forwarded to a dedicated person at the bank, usually the loan operations manager, who treats the inquiry as a priority. An investigation into the dispute is conducted. If it is determined that the information provided by the bank is incorrect, the bank will submit a correction to the credit bureau and send a letter confirming the action to the borrower. However, if the bank determines that it originally submitted the correct information, it will send a response with the results of the investigation to the credit bureau and to the borrower. A copy of all correspondence is kept by the bank.

Community banks also encourage their customers to ensure the information on credit reports is accurate. For example, they encourage customers to take advantage of

the opportunity to order the free annual credit report through statement stuffers and on their websites. In addition, when obtaining credit reports for another purpose, community banks generally review the information they've provided to ensure the information that they have supplied is correct.

Community banks also point out that credit reporting agencies currently require banks to take certain steps as part of the relationship with the credit bureau. According to the bankers, credit bureaus require the bank to certify that the information provided is correct to their knowledge, the information provided is correct and updated, the bank will provide a notice of disputed information, and will respond and correct disputed information. Furnishers may also be required by the credit bureau to configure the loan data into a universal reporting format software package like "Metro II."

Current Means for Handling Disputed Information

Community bankers differ on the percentage of disputes received directly from consumers versus those received from credit reporting agencies. On average, however, community bankers say approximately 40% of disputes are received directly from consumers and 60% of disputes are received from credit reporting agencies. Since disputes come from both consumers and credit reporting agencies, duplicate requests occur occasionally. However, community bankers say that they address all requests that are received. Typically, the percentage of consumer disputes does not vary for different lines of business and the number of disputes is about the same for mortgages, automobile loans, and unsecured credit.

Community banks will assist consumers with reconciling disputed information that was reported by the bank. Generally, the bank requests any dispute be submitted in writing and handles it similar to a dispute received by a credit bureau. The community bank will conduct an investigation in a timely manner. If the bank determines there was an error in reporting, it will notify the credit bureau through an online reporting system and notify the customer in writing with the results. Also, the bank modifies its account information accordingly if applicable. If the disputed information is from another institution, the bank will instruct the customer to contact the credit reporting agencies or other lender immediately to rectify the situation.

Recommendations

Community bankers suggest steps that could be taken to identify and prevent in accurate information from being furnished to a credit bureau. First, they suggest lenders take appropriate steps to ensure computer systems are protected against hacking. Second, the bank should provide quality training for employees posting daily payments, and training that ensures employees understand that disputes should be resolved quickly. Additionally, lenders should limit the staff authorized to post or should centralize the posting of all transactions to loan accounts. Community bankers also encourage other lenders to have dual controls and have data revisions checked by a second person.

Error Resolution by Furnishers

ICBA believes that furnishers should be responsible for submitting accurate and timely information. If a customer disputes account information that the bank reported, it should be the bank's responsibility to investigate that dispute by looking at its loan files and reporting system. However, ICBA is concerned about potential requirements that might apply where no error on the part of the bank is found, especially since community bankers' experience is that most errors occur at the credit reporting agency level. Acting as a mediator between the consumer and the credit reporting agency would be burdensome and potentially confusing if the bank is not the creditor that furnished the information. In addition, if the information disputed is not from an account at the community bank, ICBA members believe that they should not be responsible to resolve the issue. Bankers will educate the consumer on the process to dispute information, but it would be difficult for most community banks to investigate all disputes due to their size. Fundamentally, ICBA recommends that the resolution process should require that the consumer contact either the furnisher of the information or the credit reporting agency and not involve any third party creditor.

There are many benefits to the consumer disputing information directly with the furnisher. First, community bankers believe that it is important for their customers to be able to discuss the information reported directly with the company that supplied the information. Speaking with a customer directly provides an opportunity to resolve legitimate disputes amicably, responsibly, and quickly.

Where the community bank furnished the information, requiring the consumer directly contact the furnisher has other benefits. Customer service is a major priority for all community banks, and this is one way to continue dialogue with the customer. In addition, the "middle man" is cut from the process and the customer can benefit by a quicker resolution. The customer also knows their community banker well in most cases and trusts them. Additionally, the bank would have better control of the dispute and more detailed information about the problem. This would allow the community banker to easily resolve the problem, if there is one, or show the customer why the information reported is accurate.

However, it is also important to recognize that this approach may increase costs and be time consuming for banks with a limited staff. In addition, the information that may be reported inaccurately may not be due to a furnisher error. The error may have been made at the credit reporting agency and going directly to the furnisher of information could easily cause the reconciliation of the dispute to remain unresolved longer than necessary. ICBA members believe that receiving disputes from the credit reporting agency or the borrower would result in similar burden to the bank. However, most believe that disputes received from the reporting agencies are easier to process because they are uniform.

In crafting a proposed rule, ICBA suggests the agencies consider allowing a nominal fee for researching and investigating disputes received directly from consumers. If the customer's dispute is valid and the information is corrected, then the fee would be

returned to consumer. If the information is both furnished by the creditor and reported by the credit reporting agency correctly, then the consumer would be charged. Anecdotal evidence indicates some consumers may dispute information to defer collection efforts. Charging a small fee to the customer could prevent frivolous disputes and reduce burden and work to the bank.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact the undersigned by phone at 202-659-8111 or email at katie.bragan@icba.org.

Sincerely,

Katherine E. Bragan
Associate Director,
Lending and Accounting Policy