

Interagency Examination Procedures

Section 605(h) Duties of Users Regarding Address Discrepancies (12 CFR 222.82)

Background

Section 605(h)(1) of the Fair Credit Reporting Act requires that, when providing a consumer report to a person that requests the report (a user), a nationwide consumer reporting agency (NCRA) must provide a notice of address discrepancy to the user if the address provided by the user in its request “substantially differs” from the address the NCRA has in the consumer’s file. Section 605(h)(2) requires the federal banking agencies and the National Credit Union Administration (collectively, the Agencies) and the Federal Trade Commission to prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of address discrepancy. On November 9, 2007, the agencies published final rules in the Federal Register (72 FR 63718) implementing this section.

Definitions

1. Nationwide consumer reporting agency. Section 603(p) defines an NCRA as one that compiles and maintains files on consumers on a nationwide basis and regularly engages in the practice of assembling or evaluating and maintaining the following two pieces of information about consumers residing nationwide for the purpose of furnishing consumer reports to third parties bearing on a consumer’s credit worthiness, credit standing, or credit capacity:
 - a. Public record information, and
 - b. Credit account information from persons who furnish that information regularly and in the ordinary course of business.
2. Notice of address discrepancy (12 CFR 222.82(b)). A “notice of address discrepancy” is a notice sent to a user by an NCRA (section 603(p)) that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the NCRA’s file for the consumer.

Requirement to form a reasonable belief (12 CFR 222.82(c)). A user must develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that the consumer report relates to the consumer whose report was requested, when the user receives a notice of address discrepancy in connection with a new or existing account.

The rules provide the following examples of reasonable policies and procedures for forming a reasonable belief that a consumer report relates to the consumer whose report was requested:

1. Comparing information in the consumer report with information the user:
 - a. Has obtained and used to verify the consumer's identity as required by the Customer Identification Program rules (31 CFR 103.121);
 - b. Maintains in its records; or
 - c. Obtains from a third party.
2. Verifying the information in the consumer report with the consumer.

Requirement to furnish a consumer's address to an NCRA (12 CFR 222.82(d)). A user must develop and implement reasonable policies and procedures for furnishing to the NCRA an address for the consumer that the user has reasonably confirmed is accurate when the user:

1. Can form a reasonable belief that the report relates to the consumer whose report was requested;
2. Establishes a continuing relationship with the consumer (i.e., in connection with a new account); and
3. Regularly, and in the ordinary course of business, furnishes information to the NCRA that provided the notice of address discrepancy.

A user's policies and procedures for furnishing a consumer's address to an NCRA must require the user to furnish the confirmed address as part of the information it regularly furnishes to the NCRA during the reporting period when it establishes a continuing relationship with the consumer.

The rules also provide the following examples of how a user may reasonably confirm an address is accurate:

1. Verifying the address with the consumer whose report was requested;
2. Reviewing its own records;
3. Verifying the address through third-party sources; or
4. Using other reasonable means.

Examination Procedures

1. Determine whether a user of consumer reports has policies and procedures to recognize notices of address discrepancy that it receives from a nationwide consumer reporting agency (NCRA)¹ in connection with consumer reports.
2. Determine whether a user that receives notices of address discrepancy has policies and procedures to form a reasonable belief that the consumer report relates to the consumer whose report was requested (12 CFR 222.82(c)).

See examples of reasonable policies and procedures “to form a reasonable belief” in 12 CFR 222.82(c)(2).

3. Determine whether a user that receives notices of address discrepancy has policies and procedures to furnish to the NCRA an address for the consumer that the user has reasonably confirmed is accurate, if the user:
 - a. Can form a reasonable belief that the report relates to the consumer;
 - b. Establishes a continuing relationship with the consumer; and
 - c. Regularly, and in the ordinary course of business, furnishes information to the NCRA (12 CFR 222.82(d)(1)).

See examples of reasonable confirmation methods in 12 CFR 222.82(d)(2).

4. Determine whether the user’s policies and procedures require it to furnish the confirmed address as part of the information it regularly furnishes to an NCRA during the reporting period when it establishes a relationship with the consumer (12 CFR 222.82(d)(3)).
5. If procedural weaknesses or other risks requiring further information are noted, obtain a sample of consumer reports requested by the user from an NCRA that included notices of address discrepancy and determine:
 - a. How the user established a reasonable belief that the consumer reports related to the consumers whose reports were requested; and
 - b. If a consumer relationship was established:
 - i. Whether the institution furnished a consumer’s address that it reasonably confirmed to the NCRA from which it received the notice of address discrepancy; and
 - ii. Whether it furnished the address in the reporting period during which it established the relationship.

¹ An NCRA compiles and maintains files on consumers on a nationwide basis. As of the effective date of the rule (January 1, 2008), there were three such consumer reporting agencies: Experian, Equifax, and TransUnion (Section 603(p) of FCRA (15 USC 1681a)).

Conclusion: On the basis of examination procedures completed, form a conclusion about the ability of the user's policies and procedures to meet regulatory requirements for the proper handling of address discrepancies reported by an NCRA.