The CRA Settlement and What it Means for Consumers

Carolyn Fast
Special Counsel
New York Attorney General’s Office
Bureau of Consumer Frauds & Protection
200 million Americans have credit reports

FTC 2012 study:
- 26% of study participants had an error on their credit reports
- 13% experienced a change in credit score following a dispute
- 2.2% of reports had “material” errors

10 million consumers - at minimum - have errors that are likely to affect their cost of borrowing.
Causes of errors

- Incomplete or incorrect information provided to CRAs by furnishers or consumers
- Fraud and Identity Theft
- CRA’s flexible “matching algorithm”
Impact of errors

• Errors can affect whether a consumer can:
  • obtain a credit card;
  • borrow to pay for college;
  • borrower to purchase a home or car;
  • rent an apartment; and
  • obtain employment.

• Errors can also affect:
  • cost of borrowing; and
  • cost of insurance.
CRAs’ obligations

- Fair Credit Reporting Act ("FCRA") and state “Mini FCRA” laws:
  - Require CRAs to implement “reasonable” procedures to ensure maximum possible accuracy of consumer credit information;
  - Provide consumers with the right to one free credit report from each of the three CRAs every 12 months;
  - Provide consumers with the right to dispute errors and to submit documents in support of disputes;
  - Require CRAs to conduct a “reinvestigation” of disputed information;
  - Require CRAs to review and consider all relevant information submitted by the consumer; and
  - Require CRAs to delete or modify information if the information is found to be inaccurate, incomplete or if it cannot be verified.
NYAG Settlement with the CRAs

• Improves the Dispute Resolution Process
• Protects Consumers with Medical Debt
• Protects Consumers with Debt from “Payday Lenders”
• Improves Data Accuracy through Furnisher Monitoring
• Implements Consumer Education Initiative
Dispute Resolution Process

- CRAs use an automated system.
  - Notifies furnisher of the disputed data
  - Previously, CRAs sometimes relied solely on furnisher’s response.
- Reforms pursuant to the settlement:
  - CRAs must independently investigate; cannot merely “rubberstamp” furnisher’s response.
  - If furnisher verifies item, CRA employee with discretion to resolve dispute must review supporting documents.
  - CRAs must assign certain categories to specialized employees for “escalated handling.”
  - CRAs must provide second free annual report to consumers following dispute.
Medical Debt

- More than half of all collection items on credit reports consists of medical debt.
- At least 20% of consumers have medical collection debt.
- Medical debt differs from other types of debt:
  - Involuntary;
  - Unplanned;
  - Unpredictable;
  - Prices are rarely provided in advance;
  - Sometimes results from insurance disputes or delays;
  - May not be predictive of creditworthiness.
Settlement Reforms - Medical Debt

- Settlement requires CRAs to institute a 180-day waiting period before reporting medical debt.
- Waiting period will permit resolution of delinquencies that result from insurance delays or disputes.
- Medical debts will be purged from reports if they are reported as “paid by insurance.” (Delinquencies ordinarily remain on credit reports even after they are paid.)
Pay Day Lenders

• New York law limits interest rates.
• Loans made at illegal interest rates cannot legally be reported or collected.
• Settlement prohibits CRAs from including debts from lenders identified by NYAG as operating in violation of NY lending laws on NY consumers’ credit reports.
  • Protects consumers with delinquent payday loans from harm to their credit report.
  • Decreases illegal lenders’ leverage over consumers to collect on illegal debt.
Consumer Education Initiatives

- Settlement requires CRAs to implement consumer education campaign to raise awareness of:
  - Right to free annual credit report;
  - Right to dispute errors;
  - Right to submit supporting documentation.

- Includes PSAs and paid placements on TV, radio, newspapers, and online.