On March 2, 2017, the Consumer Financial Protection Bureau (CFPB) released a 23 page Supervisory Highlights Consumer Reporting Special Edition [1] discussing numerous problems and deficiencies that it found during its examinations at the "Big Three" nationwide consumer reporting companies (CRCs), i.e. Equifax, Experian, and TransUnion. Of even greater significance, the report sets out reforms that the Big Three must implement.

The report also describes problems involved with creditors and others that furnish information to the CRCs, and with the conduct of specialty CRCs and with those reselling consumer reports. The report sets out required reforms for these entities as well.

Problems Uncovered at Big Three CRCs

The problems uncovered by the CFPB should not be a surprise to consumer attorneys and advocates who’ve worked on credit reporting issues over the years, or readers of NCLC’s Fair Credit Reporting [2] (8th ed.) (2 vol., 1136 pp.). The report confirms the long-standing and extensive criticisms that attorneys and advocates have had of the Big Three CRCs over the decades. As CFPB Director Richard Cordray characterized it [3], "Standards on the accuracy of information in consumer credit files were distinctly sub-par."

Some of the problems that the CFPB documented in its report include:

- No programs to test the accuracy of credit reports that the CRCs produced, prompting Director Cordray to remark [3] "we were surprised to find that [the CRCs’] quality control systems were either rudimentary or virtually non-existent."
- Deficiencies regarding the CRCs’ relationship with furnishers and information sources such as:
  - Insufficient monitoring and re-vetting of furnishers to ensure they were continuing to meet their legal and other obligations
  - No policies to monitor dispute data regarding furnishers
  - Lack of oversight of public records vendors
  - Furnishers were rarely provided with feedback regarding data quality, and were sometimes charged fees for data-quality reports
- Deficiencies regarding the dispute process, leading Director Cordray to call the system "badly broken," such as:
  - Failure to review and consider all relevant information submitted by consumers when conducting dispute reinvestigations
  - Failure to consistently notify furnishers of disputes, as well to inform them of modifications and deletions resulting from disputes
  - Failure to properly describe the results of dispute investigations in notices to consumers

Of particular interest regarding disputes is that the CFPB noted "one or more CRCs failed to review and consider the attached documentation and relied entirely on the furnisher to investigate the dispute. To correct this violation, examiners directed the CRC(s) to revise policies and procedures…” This statement clearly refutes the oft-repeated argument by the Big Three CRCs that they have no independent responsibility when conducting dispute investigations and can defer automatically to the furnisher, an argument discussed in NCLC’s Fair Credit Reporting § 4.5.3.4.5. [4]

The CFPB report does not identify which nationwide CRCs had what problems, as supervision exams are considered confidential. The Bureau could only note that "one or more" of the Big Three CRCs were guilty of the problems described in the report.

Required Reforms

The CFPB’s Supervisory Highlights Consumer Reporting Special Edition [1] also sets out reforms that the CFPB is directing the Big Three CRCs to implement. This is where it gets exciting. The reforms require that the Big Three CRCs:

- Formalize and centralize data governance policies
- Establish robust quality control programs
- Enhance standards for public records data including greater frequency of updates and stricter identity-matching criteria
- Monitor furnishers on an ongoing basis, including a process to temporarily stop accepting data from furnishers that have accuracy problems or that fail to provide regular updates
CFPB Report Details Problems, New Requirements Consumer Reporting Companies Must Implement

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• Track furnisher dispute data
• Provide data-quality reports to data furnishers at no cost
• Correct the deficiencies in dispute handling by ensuring appropriate review of consumer proof documents, and proper provision of notices to both furnishers and consumers.

CFPB examiners required similar reforms when supervising furnishers, resellers and specialty reporting agencies.

After federal and state agencies and consumer litigants have been fighting the Big Three CRCs for the last forty years over their abuse of consumers, it appears that large-scale improvements are finally being made. While the CFPB admits this is a work in progress, the Bureau has succeeded in moving the needle by forcing the Big Three CRCs to adopt systemic policies and procedures to improve accuracy. Instituting "compliance management systems" may not seem sexy, but it’s the type of reform that is necessary in order to improve the overall accuracy of data on a large scale.

Impact of the New Reforms

Reform of the credit reporting system will potentially benefit tens of millions of consumers. In its landmark 2012 study [5], the Federal Trade Commission found that 5% of consumers – about 11 million Americans – have serious errors in their credit reports that could cause them to pay more for credit or result in a denial of credit. Each of these 11 million consumers could be losing thousands of dollars by being forced to pay more for car loans or mortgages – or worse they may lose out on jobs or homes by being denied employment or credit based on their credit reports.

If the CFPB reforms fix the serious deficiencies in their systems, these 11 million Americans will benefit to the tune of potentially billions of dollars. After all, if the CFPB’s actions prevent or fix serious errors in only half of those 11 million consumers’ credit reports, and if the individual savings for each consumer is only $1,000 over their lifetime, that would still be $5.5 billion in consumer savings—a conservative estimate. More importantly, the CFPB will be helping these consumers restore their good names and financial reputations, which may be more precious to them than dollar savings.

However, the reforms announced by the CFPB in its report are only the first step. Whether the CFPB is successful in obtaining meaningful and lasting reform of the credit reporting system depends on its ability to continue supervision of the Big Three CRCs. A number of initiatives have been recently proposed to dismantle or seriously weaken the CFPB. If that happens, the progress made by CFPB may be undone if the Big Three CRCs backslide into their bad old ways.

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