In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), the most important change to consumer protection law since passage in the late 1960s–early 1970s of the various laws that make up the Consumer Credit Protection Act. The Dodd-Frank Act was passed as a response to consumer abuses in mortgages, credit cards, and other financial products. These abuses in part led to the foreclosure crisis and mortgage meltdown of 2008, which in turn triggered the great recession of the late 2000s.

The Dodd-Frank Act completely revamped the entire regulatory system for consumer credit and financial products, establishing in Title X a new agency, the Consumer Financial Protection Bureau. The Dodd-Frank Act also made substantial changes to many of the statutes in the Consumer Credit Protection Act—not only the FCRA, but also the Fair Debt Collection Practices Act, the Truth in Lending Act, the Real Estate Settlement Procedures Act, the Electronic Funds Transfer Act, and several others.

The Dodd-Frank Act assigns to the CFPB much of the FCRA rulemaking and enforcement authority that the FTC and banking regulators held previously. The CFPB’s rulemaking authority over the FCRA is discussed in § 1.3.3.1, supra. The CFPB’s enforcement and supervision authority is discussed in § 13.3.2, infra.

With respect to supervision and enforcement, the CFPB has authority over the “larger participants” of the consumer credit reporting market, which include the Big Three nationwide CRAs (Equifax, Experian, and TransUnion) as well as a number of other CRAs, such as specialty CRAs and resellers. This authority includes the ability to actively supervise or examine these larger participants, as well as take enforcement action. The CFPB also has supervision and enforcement authority over furnishers who are financial institutions with over $10 billion in assets.

The Dodd-Frank Act preserves the FTC’s rulemaking authority over two significant provisions of the FCRA: the red flag rules and the disposal of consumer information rule. In addition, the FTC and banking regulators retain FCRA enforcement authority over smaller participants and financial institutions.

Finally, the Dodd-Frank Act added one substantive protection to the FCRA, a requirement that creditors, when providing an adverse action or risk-based notice, include in that notice the actual credit score used in making the decision. It also required the CFPB to issue a study on the differences between credit scores sold to lenders versus those sold to consumers.

Footnotes


337 [332] See § 13.2.4.5 [4], infra.

338 [333] Id.


341 [336] See § 13.2.3 [7], infra.

342 [337] See § 8.5 [8], infra.

343 [338] See § 8.7 [9], infra.


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