

SCHWARTZ & BALLEN LLP
1990 M STREET, N.W. • SUITE 500
WASHINGTON, DC 20036-3465
(202) 776-0700

FACSIMILE
(202) 776-0720

www.schwartzandballen.com

M E M O R A N D U M

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To Our Clients and Friends

Re: Proposed FACT Act Rules on Accuracy of Furnisher Information and Direct Disputes

The federal financial regulatory agencies and the Federal Trade Commission (the “Agencies”) have proposed rules requiring persons who report information to consumer reporting agencies (“CRAs”) to have written policies and procedures to ensure the accuracy and integrity of the information reported. The proposed rules would also permit consumers to directly dispute the accuracy of information appearing in their consumer reports with the furnisher of the information, instead of with the CRA. Comments are due 60 days from publication in the *Federal Register*.

ACCURACY AND INTEGRITY OF FURNISHER INFORMATION

The proposed rules implement section 312 of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”), which amended the Fair Credit Reporting Act. Under the proposed rules, furnishers of information about consumers must establish reasonable written policies and procedures to ensure the accuracy and integrity of information they report to CRAs. The policies and procedures must be appropriate for the nature, size, complexity and scope of the furnisher’s activities. In developing policies and procedures, furnishers must also consider the more detailed guidelines that the Agencies are proposing as well and adopt those that are appropriate.

DIRECT DISPUTES

The proposed rules also identify the circumstances under which a furnisher of information is required to investigate a dispute concerning the accuracy of information reported by the furnisher to a CRA and included in a consumer report on the consumer, based on a direct request from the consumer to the furnisher. Furnishers would be required to investigate disputes if they relate to:

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- Consumer's liability for a credit account or debt with the furnisher
- Terms of a credit account or other debt with the furnisher
- Consumer's performance or other conduct concerning a credit account or other relationship with the furnisher
- Other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

Furnishers would not be required to investigate disputes submitted or prepared by a credit repair organization, frivolous or irrelevant disputes or disputes regarding the consumer's identifying information (other than as related to the consumer's liability for a credit account or debt), identity of past or present employers, inquiries or requests for a consumer report, information derived from public records or information related to fraud alerts or active duty alerts.

A copy of the proposed rules can be found on our web site at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox or Heidi Wicker at (202) 776-0700.