

September 24, 2020

Kathleen Kraninger, Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

Re: Rescinding language in April 1, 2020 CFPB guidance allowing CRAs and furnishers to exceed FCRA deadlines for disputes

Dear Director Kraninger:

The undersigned organizations call upon the Consumer Financial Protection Bureau to rescind a portion of its April 1, 2020 guidance entitled "Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act." We urge you to rescind that portion of the April 1 guidance permitting consumer reporting agencies (CRAs) and furnishers to exceed the statutory deadlines imposed by the Fair Credit Reporting Act (FCRA) for investigating disputes.

Allowing CRAs and furnishers to violate the statutorily-imposed deadlines imposed by the FCRA is having a significant impact on American consumers. A search of the CFPB complaint database reveals that there has been a dramatic increase in complaints from consumers regarding delays in the processing of their disputes. From the time period of April 1 to September 23, 2020, there were 6,864 complaints in the credit reporting category that are in the subcategory "Was not notified of investigation status or results;" there were 6,262 complaints in the subcategory "Investigation took more than 30 days." Thus, consumers have lodged over 13,000 complaints just in the past six months alleging that their disputes have not been addressed within the FCRA deadline, if addressed at all. In comparison, there were only 2,000 complaints in both of these two subcategories cumulatively for the same time period in 2019. This means there has been a 550% increase--likely as a result of the CFPB guidance.

Furthermore, it has been nearly six months since the Bureau issued its April 1 guidance based on the disruption from the COVID-19 pandemic. There should no longer be a pressing need for relaxing statutorily mandated deadlines due to "reductions in staff, difficulty intaking disputes, or lack of access to necessary information." These issues should have been addressed during the last six months. Most states have partially or completely lifted shutdown orders that prevented employees from going to their offices.

Even if the CRAs and furnishers understandably want to minimize the number of employees in a location, thousands of large and small companies have shifted in the last six months to operating with most of their workforce working from home. If there are privacy and data security issues posed by working from home, multimillion-dollar transnational corporations should have been able to figure this out during the last 6 months. Furthermore, given that the nationwide CRAs often process disputes remotely in foreign countries such as India and Chile, they are already accustomed to sending information overseas and hopefully have data security

safeguards in place. To the extent there are furnishers that do not have the data security safeguards needed to investigate disputes using employees at home, these same furnishers should not be actually furnishing information to the CRAs either absent those safeguards.

These delays or even failure to process disputes are causing real and significant difficulties to American consumers. For example, one consumer complains:

“It has been over 60 days ago since I've sent letters to this bureau and they are disregarding a regular consumer disputes [sic]. I'm stressed and have been sending letters before this and still no response. I am trying to get a house and can not move forward without supplying these results.”

Consumer complaint to CFPB ID 3811090, Aug 24, 2020

At a minimum, the CFPB should limit the extra time provided to CRAs and furnishers to 15 days, or at most 30 days beyond the FCRA-mandated 30-day deadline for investigating disputes. Fifteen to 30 extra days should be more than enough, given that they have had six months to adjust to working in the COVID-19 environment, and the amount of harm to consumers.

For questions about this letter, please contact Chi Chi Wu at cwu@nclc.org or 617-226-0326.

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)
Americans for Financial Reform Education Fund
Center for Digital Democracy
Consumer Action
Consumer Federation of America
Consumer Reports
Delaware Community Reinvestment Action Council, Inc.
Demos
Missouri Faith Voices
Montana Organizing Project
National Association of Consumer Advocates
New Georgia Project
New Jersey Citizen Action
Public Good Law Center
Tennessee Citizen Action
Texas Appleseed
Tzedek DC
U.S. PIRG
Virginia Organizing
VOICE - OKC
Woodstock Institute