

The National Credit Reporting Association, Inc.
Position and Views on the 2003 Re-Authorization of
The Fair Credit Reporting Act

Current Situation

NCRA believes that the FCRA, like the entire credit reporting system in the United States of America, is adequately structured to fairly and efficiently accommodate the needs of lenders while offering consumer protection. These accommodations would be lost without the renewal of the preemption protections set to expire this year. Despite NCRA's opinion that our credit system is the best one in the world, there exist several areas that, if improved, could make an excellent system even better.

Areas of Concern

There are three major areas and several issues in each area that should be addressed in the revision of the FCRA. All of these areas are concerned with the most important element of the credit reporting system, the consumer, since the FCRA is basically a consumer protection law. The credit reporting system was designed to benefit lenders and borrowers equally but has evolved into a much more powerful tool for the credit grantors. Fundamentally, there is nothing wrong with this so long as consumers still enjoy the benefit of expeditious credit granting, and, most importantly, consumer rights and opportunity for recourse are protected to the highest-level possible. The following areas are where NCRA believes changes should be made:

1. Consumer Rights and Recourse

In the increasingly faster and more automated lending climate extending from mortgage lending to credit card issuance, the emphasis by credit grantors is now focused on playing the percentages, enabled by the widespread use of risk-based lending based upon credit scoring models. While understandable from a business point of view, it is acceptable only to the point at which consumer rights may be jeopardized.

Score-based approval mechanisms are driven by the data contained in basic consumer files at the repository level. These consumer files are known to contain incomplete and inaccurate information for a number of reasons. This is evidenced by the joint study between NCRA and the Consumer Federation of America indicating that one out of three consumers have scores that vary by more than 40 points between the three major credit repositories. For this reason it is important to give a consumer that has been denied credit or given unfavorable terms of credit a concise and accurate disclosure of the precise reason for any adverse action being taken. We question the actual issuance of clear adverse action disclosures by many lenders in many industries and feel that disclosure requirements should be addressed.

Another of the historic problems of the credit reporting system has been the seemingly undue burden on consumers when trying to correct inaccuracies within the main repository credit files. This issue has only increased with the additional stress to the system caused by the increase of identity theft. This problem is clearly noted by the dominance of complaints to the Federal Trade Commission related to credit bureaus or identity theft.

2. Definition and Delineation of Intermediary Agency Roles and Functions

Intermediary credit reporting agencies referred to as “resellers” in the FCRA and by the credit repositories, have existed primarily in the mortgage industry for many years. They have operated in the capacity of serving the needs of the mortgage lenders by ensuring that the most up-to-date reports are furnished by verifying, adding, updating, and correcting any and all stipulated information. Their function equally, if not more importantly, is providing consumers in need of assistance a rapid and accessible means of dispute resolution in the credit reporting process.

Under the existing FCRA intermediary agencies are defined as consumer reporting agencies and are only slightly differentiated from the repositories. The basic difference in their functions is that the repositories collect and maintain historical credit information and the intermediary credit reporting agencies perform research and amend the existing information to produce specialized hybrid reports. Both functions are critical to the entire process and should not be issued the same guidelines under which to operate.

3. Creditor Responsibility

Consumer Reporting Agencies have proven to be an invaluable tool to lenders by providing the ability to approve coveted credit customers in seconds. They should possess a keen awareness to the importance of maintaining accurate data. Industry experts agree that an unacceptable percentage of discrepancies in consumer files are the result of creditor error. While inaccuracies are unavoidable, especially in the administration of some 200 million files, NCRA believes that a significant reason for the source of these errors on the part of creditors is that the current FCRA does not address the problem adequately. The current law does not provide significant creditor legal responsibility.

Additionally, with the growing importance of credit scoring, creditors that provide partial or negative only data to the system create problems for many consumers, especially those the FCRA was designed to protect.

Proposed Solutions

The challenges to the integrity of the existing credit reporting system outlined above are not insurmountable obstacles. With the proper attention toward correcting these flaws that ultimately impede consumers’ rights to the most accurate database possible, the

system can be fine-tuned for dramatic improvement. NCRA proposes the following solutions:

1. Full Disclosure of the Original Qualifying Report When Any Adverse Actions Exist

The current required method of providing names and phone numbers of the credit reporting agency, along with short, non-descriptive, and sometimes cryptic reasons for denial should be changed to include a full copy of the entire credit report used in the decision making process, along with a letter detailing the steps to dispute any inaccuracies contained in the report. By seeing a copy of the entire report, a consumer can make a more qualified decision, when evaluating the accuracy of the report, of whether or not to spend the time and effort to dispute items with the reporting agencies and the reporting creditors.

2. Increased Availability of Consumer Assistance from Intermediary Agencies

In the adverse action letter, include a disclosure offering consumers the option to: a) contact the repository that furnished the report and include their rights for disputing any inaccurate information under the FCRA or b) contact an intermediary credit reporting agency for assistance in the correction process for a nominal service fee.

3. Enhance the Definition Section of the FCRA Pertaining to Consumer Reporting Agencies

Because a more developed role of Intermediary Consumer Reporting Agencies will significantly assist consumers in researching, disputing, and maintaining accuracy of their personal credit files, section 603 of the FCRA should be re-written to include a separate definition for “Intermediary Consumer Reporting Agencies,” those agencies that do not physically maintain the data housed in the repositories’ databases but resell both data and services essential in correcting data in a efficient and expedient manner. More specific duties, definitions, responsibilities, and accountabilities would be included.

4. Strengthen the Responsibilities of Furnishers of Information Section

Revisit the entire section 623, outlining the responsibilities of furnishers. The responsibilities and duties should be re-written to a higher and stricter standard. In addition, penalties and consumer remedies should be made more prominent.

The FCRA and the American credit reporting system is the standard that many nations around the globe look to as a model. That model contains a federal provision to keep the system from becoming fractured by the states passing individual laws pertaining to many different sections. To maintain this system, the renewal of preemption is necessary. To make the system more efficient in dealing with the faster pace of modern lending decisions and to handle more complex challenges, some minor changes will be needed to expand on safeguards to consumers. Resellers currently administer almost 100% of the credit reporting customer service to the mortgage industry. This “sub-industry” should be identified, recognized, defined, and utilized as a solution to these challenges.