

## It's About Time!

Beginning July 1<sup>st</sup> 2010, new guidelines will be in place that could dramatically help borrowers. The Federal Trade Commission (FTC) has amended Section 312 of the Fair and Accurate Transactions Act of 2003 (FACT Act), which will tightly govern the way creditors report information to the bureaus.

Did you know that 70% of credit reports contain some inaccurate information? While some may be an incorrect address or a misspelled name, a good portion is in the information the creditors report to the credit bureaus.

This new amendment calls for “accuracy and integrity” when it comes to furnishing information to the credit bureaus. Creditors are required to have closely monitored guidelines in place to ensure they report information “so that it does not create a misleading impression about a consumer’s creditworthiness.”

So what does “accuracy” imply? Any information a creditor reports to a credit bureau regarding an account or other relationship must correctly:

- Reflect the terms and liability for the account or other relationship
- Reflect the consumer’s performance and other conduct with respect to the account or other relationship
- Identify the appropriate consumer

One of the much needed aspects of “accuracy” is the information the creditor is reporting is for the correct consumer. More due diligence is required by the creditor to ensure the account actually belongs to the consumer and the performance of the account is reported accurately. In the past a 30 day late payment was reported, when in fact, it was only 5, 10 or 20 days late. Guidelines must be in place to prevent misreporting of information.

“Integrity” implies that any information provided by a creditor about an account or other relationship:

- Is substantiated by the furnisher’s records at the time it is furnished
- Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report



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- Includes the information in the furnisher's possession about the account or other relationship that the relevant Agency has:
  - Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living
- Provides the credit limit, if applicable and in the furnisher's possession.

This last item is perhaps the most important and specific to a reporting practice of creditors who do not report credit limits or who report limits equal to the maximum the consumer has used on the card. For example – a consumer has a \$5,000 credit limit, but the maximum they have charged is \$500, so the creditor reports this as their credit limit. This is no longer acceptable or tolerated under the new guidelines. The practice of reporting no credit limit is also not acceptable. In previous cases, any balance with no limit would imply they are over their limit.

Consumers can also initiate a "direct dispute" with the creditor as opposed to disputing with the credit bureau. A consumer can still file a dispute with the credit repositories but under the new rulings the borrower can file a direct dispute with the creditor and the creditor must now perform a complete investigation of the borrowers dispute and provide a response within a "timely manner". This includes a response in writing to the consumer.

Some long needed changes are coming, which should keep creditors on their toes and hopefully enable consumers to breathe a little easier about their credit reports.

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