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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1022

Fair Credit Reporting; Facially False Data

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Advisory opinion.

SUMMARY: The Consumer Financial Protection Bureau (Bureau) is issuing this advisory opinion to highlight that a consumer reporting agency that does not implement reasonable internal controls to prevent the inclusion of facially false data, including logically inconsistent information, in consumer reports it prepares is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of the Fair Credit Reporting Act (FCRA).

DATES: This advisory opinion is effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ilana Waxman, Senior Counsel, Tyler Sines or Jason Grimes, Counsels, Office of Supervision Policy at (202) 435-7700 or https://reginquiries.consumerfinance.gov/. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov*.

SUPPLEMENTARY INFORMATION: The Bureau is issuing this advisory opinion through the procedures for its Advisory Opinions Policy.[1] Refer to those procedures for more information.

[1] 85 FR 77987 (Dec. 3, 2020).

I. Advisory Opinion

A. Background

Accuracy in consumer reports is of vital importance to the consumer reporting system, particularly as consumer reports play an increasingly central role in the lives of American consumers. Consumer reporting agencies collect and assemble credit, public record, and other consumer information into consumer reports.[2] Creditors, insurers, landlords, employers, and others use the information in these reports to make eligibility determinations and other decisions that can have a significant impact on consumers. For example, creditors use information in consumer reports to determine whether, and on what terms, to extend credit to a particular consumer, while landlords and employers use background screening reports in deciding whether to rent to prospective tenants and hire employees, respectively.

Inaccurate, derogatory information in consumer reports can have significant adverse impacts on consumers. For example, inaccurate, derogatory information in consumer reports can lead to higher interest rates, ineligibility for promotional offers, or otherwise less favorable credit terms for affected consumers. This in turn may cost consumers hundreds or thousands of dollars in additional interest. Even worse, inaccurate, derogatory information in consumer reports could lead lenders to deny a consumer credit entirely, making it difficult or impossible for that consumer to obtain a mortgage, auto loan, student loan, or other credit. Any of these consequences can be devastating for a consumer's financial well-being and life. Inaccurate, derogatory information in consumer reports can also harm the businesses that use such reports by leading them to make unsupported decisions.

[2] *See* 15 U.S.C. 1681a(d) (defining "consumer report").

Consumer report accuracy depends on the various parties to the consumer reporting system, including: the three nationwide consumer reporting agencies (Equifax, Experian, and TransUnion); other consumer reporting agencies, such as background screening companies; entities such as creditors who furnish information to consumer reporting agencies (i.e., furnishers); and public record repositories. While any of these parties may introduce inaccurate information into the consumer reporting process, a consumer reporting agency is uniquely positioned to identify certain obvious inaccuracies and implement policies, procedures, and systems to keep them off of consumer reports. In some cases, such as when certain account or other information fields on consumer reports are logically inconsistent with other fields of information, a consumer reporting agency can detect the logical inconsistencies and prevent the inaccurate information from being included in consumer reports it generates, thereby avoiding the consumer harm to individual consumers that can result from reporting such inaccurate information.

Inaccuracy in consumer reports is a long-standing issue that remains a problem today. Pursuant to its obligations under the Fair and Accurate Credit Transactions (FACT) Act[3] to conduct a study of consumer report accuracy and completeness, the Federal Trade Commission in 2012 published a report finding, among other things, that one in five consumers who participated in the study had an error on at least one of their three nationwide credit reports.[4] Another more recent study, published in 2021, found that over 34% of consumers surveyed were able to identify at least one error in their credit reports.[5]

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[3] Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159, sec. 319, 117 Stat. 1952 (2003).
[4] *See* Fed. Trade Comm'n, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, at 64 (Dec. 2012), https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf.
[5] *See* Syed Ejaz, Consumer Reports, *A Broken System: How the Credit Reporting System Fails Consumers and What to Do About It* 4 (June 10, 2021), https://advocacy.consumerreports.org/wp-content/uploads/2021/06/A-Broken-System-How-the-Credit-Reporting-System-Fails-Consumers-and-What-to-Do-About-It.pdf.

Consumer complaints submitted to the Bureau continue to reflect significant consumer concern about inaccuracies in consumer reports. Complaints about "incorrect information on your report" have represented the largest share of credit or consumer reporting complaints submitted to the Bureau each year for at least the last six years.[6] In 2021 alone, companies responded to more than 157,000 such complaints, representing a majority (53%) of credit or consumer reporting complaint responses that year.[7]

Moreover, the Bureau continues to see accuracy issues at furnishers and consumer reporting agencies through its supervisory activities. For example, the Bureau noted in its Spring 2022 Supervisory Highlights that many furnishers lacked "reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers."[8] In its Summer 2021 Supervisory Highlights, the Bureau explained that some consumer reporting agencies lacked adequate procedures for assuring maximum possible accuracy of consumer reports when they "continued to include information in consumer reports that was provided by unreliable furnishers."[9]

[6] *See* Consumer Fin. Prot. Bureau, *Consumer Response Annual Report*, at 20 (Mar. 2022), https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf; Consumer Fin. Prot. Bureau, *Consumer Response Annual Report*, at 22 (Mar. 2021), https://files.consumerfinance.gov/f/documents/cfpb_2020-consumer-response-annual-report_03-2021.pdf; Consumer Fin. Prot. Bureau, *Consumer Response Annual Report*, at 19 (Mar. 2020), https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2019.pdf; Consumer Fin. Prot. Bureau, *Consumer Response Annual Report*, at 19 (Mar. 2019), https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2018.pdf; Consumer Fin. Prot. Bureau, *Consumer Response Annual Report*, at 13 (Mar. 2018), https://files.consumerfinance.gov/f/documents/cfpb_consumer-response-annual-report_2017.pdf; Consumer Fin. Prot. Bureau, *Consumer Response Annual Report*, at 18 (Mar. 2017), https://files.consumerfinance.gov/f/documents/201703_cfpb_Consumer-Response-Annual-Report-2016.PDF.

[7] *See* Consumer Fin. Prot. Bureau, Consumer Response Annual Report, at 20 (Mar. 2022), https://files.consumerfinance.gov/f/documents/cfpb_2021-consumer-response-annual-report_2022-03.pdf for more in-depth analyses.

[8] *See* Consumer Fin. Prot. Bureau, *Spring 2022 Supervisory Highlights*, at 10 (May 2022), https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-26_2022-04.pdf.

[9] *See* Consumer Fin. Prot. Bureau, *Summer 2021 Supervisory Highlights*, at 7 (Jun. 2021), https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-24_2021-06.pdf.

The Bureau also continues to find accuracy issues in the consumer reporting context through its enforcement activities. For example, the Bureau has brought enforcement actions against consumer reporting agencies whose inadequate "name-only matching" led to reports with inaccurate derogatory criminal and public records information on consumers.[10] The Bureau also has brought enforcement actions against furnishers who furnish information with inherent logical inconsistencies, such as furnishing an increasing "original loan amount" over time, where that field should not change.[11]

The FCRA regulates consumer reporting.[12] The statute was designed to ensure that "consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information."[13] In interpreting the statute, Federal courts likewise highlight the importance of data accuracy. The FCRA was enacted "to protect consumers from the transmission of inaccurate information about them and to establish credit reporting practices that utilize accurate, relevant, and current information in a confidential and responsible manner."[14] Because of the importance of consumer report accuracy to businesses and consumers, the structure of the FCRA creates interrelated legal standards and requirements to support the policy goal of accurate credit reporting. Among these is the requirement that, when preparing a

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[10] Consent Order at ¶¶ 8-29, *In re Gen. Inf. Svcs. Inc.*, 2015-0028 (Oct. 29, 2015), https://files.consumerfinance.gov/f/201510_cfpb_consent-order_general-information-service-inc.pdf; Complaint at ¶¶ 5-11, *Consumer Fin. Prot. Bureau v. Sterling Infosys., Inc.*, No. 1:19-cv-10824 (S.D.N.Y. Nov. 22, 2019), https://www.consumerfinance.gov/enforcement/actions/sterling-infosystems-inc/.

[11] Consent Order at ¶ 41, *In re Hyundai Capital Am.*, 2022-CFPB-0005 (July 26, 2022), https://files.consumerfinance.gov/f/documents/cfpb_hyundai-capital-america_consent-order_2022-07.pdf.

[12] *See* 15 U.S.C. 1681-1681x.

[13] 15 U.S.C. 1681(b).

[14] *Guimond v. Trans Union Credit Info.*, 45 F.3d 1329, 1333 (9th Cir. 1995) (citations omitted); *see also* S. Rep. No. 91-517, at 1 (1969) (explaining that the FCRA was intended to "prevent consumers from being unjustly damaged because of inaccurate or arbitrary information in a credit report").

consumer report, consumer reporting agencies "shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates."[15]

Inaccuracies in consumer reports can, in part, be attributed to consumer reporting agencies failing to maintain reasonable procedures, such as business rules, to prevent the inclusion of facially false data, including logical inconsistencies relating to consumer data and/or the status or other information associated with consumer accounts, when preparing consumer reports. Courts have recognized that in "certain instances, inaccurate credit reports by themselves can fairly be read as evidencing unreasonable procedures[.]"[16] The Bureau is issuing this advisory opinion to highlight that the legal requirement to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individuals about whom the reports relate includes, but is not limited to, procedures to screen for and eliminate logical inconsistencies to avoid including facially false data in consumer reports.

There are many logical inconsistencies that could result in inaccurate, facially false data being included on consumer reports in violation of section 607(b). The following is a non-exhaustive list of examples of some of the types of logical inconsistencies that reasonable procedures to assure maximum possible accuracy would screen for and eliminate:

Inconsistent Account Information or Statuses

A consumer reporting agency's policies and procedures should be sufficient to detect tradelines with account statuses or codes that are plainly inconsistent with other information reported for that same account, such that, if included in a consumer report, at least one item of information therein would necessarily be inaccurate. Such inconsistencies may include:

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[15] 15 U.S.C. 1681e(b).
[16] *Stewart v. Credit Bureau, Inc.,* 734 F.2d 47, 52 (D.C. Cir. 1984).

- An account whose status is paid in full, and thus has no balance due but nevertheless reflects a balance due;[17]
- An account that reflects an "Original Loan Amount" that increases over time, an impossibility by definition;[18] and
- Derogatory information being reported on an account, although that derogatory information predates an earlier report that did not include the derogatory information.[19]

A consumer reporting agency's policies and procedures should further identify and prevent illogical reporting of a Date of First Delinquency in connection with an account.[20] Section 605(a) of the FCRA identifies categories of information that cannot be included in a consumer report after a certain amount of time.[21] For example, a consumer reporting agency may not include on a consumer report accounts placed for collection or charged to profit and loss that antedate the report by more than seven years and 180 days.[22] This provision enables consumers to move beyond their past and rebuild their credit following a delinquency. The Date of First Delinquency provided by a furnisher must reflect the month and year on which the

[17] *Cf.* Consent Order at ¶ 20, *In re Santander Consumer USA Inc.*, 2022-BCFP-0027 (Dec. 20, 2020) ("Respondent also reported in approximately 250,000 instances that accounts had a current balance and simultaneously furnished contradictory information, such as also furnishing information indicating that the accounts were paid in full."), https://files.consumerfinance.gov/f/documents/cfpb_santander-consumer-usa-inc_consent-order_2020-12.pdf. The Santander consent order, along with other CFPB consent orders cited herein, relate to furnisher obligations under section 623 of the FCRA, but the underlying logical inconsistencies involved, as described herein, are illustrative examples of the types of inconsistencies that a credit reporting agency's reasonable policies and procedures to assure maximum possible accuracy should be designed to detect.

[18] *Cf.* Consent Order at ¶ 41, *In re Hyundai Capital Am.*, 2022-CFPB-0005 (July 26, 2022) ("After furnishing the correct original loan amount (a field that should not change), Respondent furnished increased amounts for the "original loan amount," making it appear that a consumer had taken out a larger loan than they had actually taken out."), https://files.consumerfinance.gov/f/documents/cfpb_hyundai-capital-america_consent-order_2022-07.pdf.

[19] *Bryant v. TRW, Inc.*, 487 F. Supp. 1234, 1242 (E.D. Mich. 1980) (refusing to set aside a jury verdict finding that a consumer reporting agency failed to follow reasonable procedures under FCRA section 607(b) for failing to detect inconsistencies between a September report containing derogatory information and an earlier May report on which such information did not appear even though at least one of the derogatory items predated the May report).

[20] The Date of First Delinquency herein refers to the date furnished to a credit reporting agency by a furnisher that purportedly reflects the month and year on which the delinquency being reported in connection with a consumer's account commenced.

[21] 15 U.S.C. 1681c(a).

[22] 15 U.S.C. 1681c(a)(4), (c).

delinquency being reported commenced.[23] When accurate, that date corresponds with the start of the time period that, once elapsed, precludes the delinquency from remaining on a consumer report under FCRA section 605(a). A Date of First Delinquency that is more recent than the start of a delinquency may lead a report user to believe a consumer had financial difficulty more recently than is the case. Similarly, a Date of First Delinquency reflected on a report where a consumer is not in fact delinquent could cause a user to inaccurately believe that the consumer is delinquent. Examples of an illogical Date of First Delinquency may include:

- A Date of First Delinquency reported for an account whose records reflect no delinquency, such as through activity reflecting a current account (complete history of timely payments, $0 amount overdue) or through a current account status code;[24]
- A Date of First Delinquency that post-dates a charge-off date; and
- A Date of First Delinquency, or date of last payment, that predates the account open date (for non-collection accounts).

Illogical Information Relating to Consumers

A consumer reporting agency's policies and procedures should also identify logical inconsistencies in consumer information, such that, if included in a consumer report, some of the information therein would necessarily be inaccurate. Such inconsistencies may include:

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[23] 15 U.S.C. 1681s-2(a)(5)(A). Under the FCRA, furnishers must report a Date of First Delinquency within 90 days of furnishing information regarding delinquent accounts being placed for collection, charged to profit or loss, or subjected to any similar action. *Id*.

[24] *Cf.* Consent Order at ¶ 36, *In re Hyundai Capital Am.*, 2022-CFPB-0005 (July 26, 2022) ("Respondent furnished account data showing that the consumer account was current, such as reporting $0 amount overdue or full payments made timely each month, but then also furnished a [Date of First Delinquency], a field that inaccurately indicated that the account was in an ongoing delinquency."); Consent Order at ¶ 17, *In re Santander Consumer USA Inc.*, 2020-BCFP-0027 (Dec. 20, 2020) (alleging Santander violated FCRA § 623(a)(1)(A) by inaccurately furnishing "internally inconsistent" data, including reporting "[Date of First Delinquencies] for accounts that were current, paid in full (and not delinquent immediately beforehand), or previously delinquent but subsequently became current").

- Impossible information about consumers – for example, a tradeline that includes a relevant date, such as a date of account opening, account closing, date of last payment, or date of first delinquency, for an account that is in the future—an obvious impossibility—or for an individual account that either predates that consumer's listed date of birth or that is so far in the past (e.g., January 1, 1800) that it must predate every living consumers' date of birth, as individuals cannot open an account before they are born;[25] and
- Information about consumer accounts that is plainly inconsistent with other reported information, such that one piece of information must be inaccurate – for example, if every other tradeline is reporting ongoing payment activity, while one tradeline contains a "deceased" indicator, reasonable policies and procedures should identify the inconsistency and the consumer reporting agency should prevent the inclusion of the inaccurate information in consumer reports it generates.[26]

A consumer reporting agency's policies, procedures and internal controls should further identify and prevent reporting of illegitimate credit transactions for a minor. Minors generally cannot legally enter into contracts for credit except in certain limited circumstances. It is logically inconsistent when a credit transaction is reported for a person who lacks capacity to enter into a contract because they are a minor, unless there are indicia that the credit transaction is legitimate, such as in the context of student loans, credit card authorized users, or emancipated

[25] *See, e.g.*, *Sheffer v. Experian Information Solutions, Inc.*, 2003 WL 21710573, at *2 (E.D. Pa. 2003) (referencing a consumer report that "indicated both that Plaintiff was born in 1969 and that the account was opened in 1965" as one of two "inconsistencies" that "provide[d] a basis from which a jury could infer that the procedures were unreasonable").

[26] *Gohman v. Equifax Information Services, LLC*, 395 F. Supp. 2d 822, 827 (D. Minn. 2005); *see also Sheffer,* 2003 WL 21710573, at *2 (referencing the fact that only one account of approximately two dozen on a consumer's report included the "deceased" notation as one of two "inconsistencies" that "provide[d] a basis from which a jury could infer that the procedures were unreasonable").

minors.[27] The Bureau is aware of evidence showing that instances of identity theft are especially prevalent for minors, suggesting that identity thieves may target minors due to the value of unused Social Security numbers and a belief that there is a lower probability of discovery of the fraud.[28] This risk may be even more acute for minors in the United States foster care system, who often lack a permanent address and frequently have their personal information shared among numerous adults and agency databases, making them particularly susceptible to identity theft and inaccurate credit history information.[29] This heightened risk faced by minors underscores the importance for consumer reporting agencies to maintain procedures designed to identify illegitimate credit transactions reported for minors and prevent inclusion thereof when preparing consumer reports.

The Bureau is issuing this advisory opinion to remind consumer reporting agencies that the failure to maintain reasonable procedures to screen for and eliminate logical inconsistencies, to prevent the inclusion of facially false data in consumer reports, is a violation of their FCRA obligation to "follow reasonable procedures to assure maximum possible accuracy" under section 607(b) of the FCRA.

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[27] This example is consistent with prior Federal Trade Commission (FTC)'s *40 Years Report*. *See* FTC, 40 YEARS OF EXPERIENCE WITH THE FAIR CREDIT REPORTING ACT (July 2011) [hereinafter, the "FTC 40 Years Report"], *available at* https://www.ftc.gov/sites/default/files/documents/reports/40-years-experience-fair-credit-reporting-act-ftc-staff-report-summary-interpretations/110720fcrareport.pdf, at 68, comment 8 ("A [consumer reporting agency] must maintain procedures to avoid reporting information with obvious logical inconsistencies, such as a credit account opened when the consumer was known to be a minor."). FTC staff published the *40 Years Report,* an updated compilation of past FTC interpretations of the FCRA, to coincide with the transfer of authority to the Bureau. Effective July 21, 2011, the Dodd-Frank Act transferred rulemaking authority related to most of the FCRA to the Bureau, giving the Bureau the primary regulatory and interpretive roles under the FCRA.

[28] *See, e.g.*, Richard Power, Carnegie Mellon CyLab, CHILD IDENTITY THEFT: NEW EVIDENCE INDICATES IDENTITY THIEVES ARE TARGETING CHILDREN FOR UNUSED SOCIAL SECURITY NUMBERS (2011), *available at* https://www.cylab.cmu.edu/_files/pdfs/reports/2011/child-identity-theft.pdf.

[29] *See* Consumer Fin. Prot. Bureau, "CFPB Releases Tools to Protect Foster Care Children from Credit Reporting Problems" (May 1, 2014), *available at* https://www.consumerfinance.gov/about-us/newsroom/cfpb-releases-tools-to-protect-foster-care-children-from-credit-reporting-errors/#:~:text=To%20submit%20a%20complaint%2C%20consumers,1%2D855%2D237%2D2392.

B. Coverage

This advisory opinion applies to all consumer reporting agencies as defined in FCRA section 603(f).[30]

C. Legal Analysis

Section 607(b) of the FCRA provides that "[w]henever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates."[31] The Bureau has interpreted this requirement in section 607(b) to include as an integral component that consumer reporting agencies implement and maintain reasonable screening procedures, such as business rules, designed to identify and prevent the inclusion of facially false data, such as logical inconsistencies relating to consumer or account information, in the consumer reports they prepare.

Courts have spoken on this topic. For example, in *Bryant v. TRW, Inc.*, the court rejected a consumer reporting agency's assertion that it had "no obligation" to compare facially inconsistent information contained in two of plaintiff's consumer reports from different months because such an interpretation would make the consumer reporting agency "simply a conduit and eliminate from the [FCRA] its emphasis on the reasonableness of the procedures followed in putting together a consumer report," contrary to Congressional intent.[32] Courts have also

[30] 15 U.S.C. 1681a(f).
[31] 15 U.S.C. 1681e(b).
[32] *See Bryant v. TRW, Inc.*, 487 F. Supp. at 1242. *See also McKeown v. Sears Roebuck & Co.*, 335 F. Supp. 2d 917, 930 (W.D. Wis. 2004) ("[R]eceiving apparently inconsistent credit reports may trigger an obligation to investigate on the part of the credit reporting agency .... [because] allowing credit reporting agencies to act as nothing more than mere conduits of information would eviscerate the act's emphasis on reasonable compilation procedures.") (citing *Bryant*, 487 F. Supp. at 1242); *Wright v. Experian Info. Sols., Inc.*, 805 F.3d 1232, 1239 (10th Cir. 2015) ("Courts have held [consumer reporting agencies] must look beyond information furnished to them when it is inconsistent with the [consumer reporting agencies'] own records, contains a facial inaccuracy, or comes from an unreliable source.").

indicated that the inclusion of facially false data inaccuracies on a consumer report may, in certain circumstances, evidence the unreasonableness of a consumer reporting agency's procedures.[33]

It continues to be the Bureau's interpretation as outlined in this advisory opinion that such procedures are required, consistent with the core purpose of the FCRA as described in FCRA section 602—i.e., to require consumer reporting agencies to adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner that is fair and equitable to the consumer with regard to accuracy, among other responsibilities.[34] This interpretation also aligns with the Federal Trade Commission's *40 Years Report*, which states that pursuant to 607(b), a consumer reporting agency "must maintain procedures to avoid reporting information with obvious logical inconsistencies, such as a credit account opened when the consumer was known to be a minor."[35]

In addition to provisions authorizing Federal and State enforcement,[36] the FCRA contains two provisions relating to civil liability to consumers for noncompliance. Section 617 provides that "any person who is *negligent* in failing to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to" the consumer's actual damages, and costs and reasonable attorney's fees.[37] Section 616 provides that "any person who *willfully* fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to" actual or statutory damages of up to $1,000 per violation, such punitive damages as the court allows, and costs and

[33] *See Stewart v. Credit Bureau, Inc.*, 734 F.2d at 52; *Sheffer*, 2003 WL 21710573, at *2.
[34] 15 U.S.C. 1681(b); *see also Guimond*, 45 F.3d at 1333.
[35] FTC 40 Years Report, at 68, comment 8.
[36] 15 U.S.C. 1681s.
[37] 15 U.S.C. 1681o (emphasis added).

reasonable attorney's fees.[38] A violation is willful when it is inconsistent with "authoritative guidance" from a relevant agency.[39] As with any guidance issued by the CFPB on the FCRA, or predecessor agencies that were responsible for administering the FCRA prior to the CFPB's creation, consumer reporting agencies risk liability under Section 616 if they violate the FCRA in a manner described in this Advisory Opinion, regardless of whether the consumer reporting agencies were previously liable for willful violations prior to its issuance.

II. Regulatory Matters

This advisory opinion is an interpretive rule issued under the Bureau's authority to interpret the FCRA, including under section 1022(b)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act,[40] which authorizes guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial laws.[41]

The Bureau has determined that this advisory opinion does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act.[42]

Pursuant to the Congressional Review Act,[43] the Bureau will submit a report containing this interpretive rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the

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[38] 15 U.S.C. 1681n (emphasis added); *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 57-58 (2007) (construing meaning of "willful").
[39] *Safeco Ins. Co. of Am. v. Burr*, 551 U.S. 47, 70 (2007); *Fuges v. Sw. Fin. Servs., Ltd.*, 707 F.3d 241, 253 (3d Cir. 2012).
[40] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010).
[41] 12 U.S.C. 5512(b)(1).
[42] 4 U.S.C. 3501-3521.
[43] 5 U.S.C. 801 *et seq*.

rule's published effective date. The Office of Information and Regulatory Affairs has designated this interpretive rule as not a "major rule" as defined by 5 U.S.C. 804(2).

Rohit Chopra,

Director, Consumer Financial Protection Bureau.