

MINIMIZING THE RISKS OF COLLECTIONS INDUSTRY CREDIT BUREAU REPORTING



Minimizing Regulatory & Litigation Risk

A White Paper by Jennifer Maisano, President & CEO, Credit Bureau Strategy Consulting, LLC



Credit Bureau Strategy Consulting, LLC

Building Your Business On Data Integrity

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About the Author

Jennifer Maisano

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Jennifer Maisano is President and CEO of Credit Bureau Strategy Consulting, a firm dedicated to providing expertise in all aspects of credit bureau management. Prior to founding CBSC, Jennifer spent 20 years in the financial and consulting industries at CitiCards, FleetBoston/Bank of America, CitiFinancial, Acuity Consulting and First Maryland Bancorp. Jennifer's experience ranges across a diverse range of risk functions including Credit Bureau Strategy and Reporting, Credit and Fraud Risk Management, Credit Policy/Compliance, Collections and Credit Risk Systems and testing, and Operational Process Reengineering.

While managing the Credit Bureau Management function at one major institution, Jennifer was able to mitigate over **\$22 BILLION** in potential payouts, FCRA fines and litigation exposure by identifying and eliminating over 15 million incorrectly reported tradelines across the 3 major bureaus and subsequently correcting the internal root causes for the erroneous reporting. Jennifer has also been a speaker at several financial industry schools, conferences and FACTA 312 and Red Flag training sessions.

About Credit Bureau Strategy Consulting

Credit Bureau Strategy Consulting, LLC (CBSC) has emerged as a leader in the credit bureau strategy and consulting industry. Founded in 2007, CBSC is committed to providing extraordinary service and support to our clients. Incorporating consulting and training, CBSC is dedicated to helping clients meet the highest standards for data accuracy and integrity mandated by FCRA and FACTA 312.



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Section 1

EXECUTIVE SUMMARY

Financial losses due to Credit Bureau disputes are on the rise, increasing exponentially over the last 5 years since the FACT Act mandated the availability of "free annual credit reports."

Whether due to the operational costs of managing an increasing number of disputes, litigation and complaints or regulatory fines, the financial risk of credit bureau reporting has been taking larger and larger bites out of all our bottom lines.

Recent economic conditions are already bringing additional focus to consumer protection issues, and at the forefront is the financial Industry's responsibility to: 1. report consumer data accurately/monitor data integrity regularly and, 2. provide the basis for building credit history in the subprime and under serviced markets, and 3. rebuilding credit history for those negatively affected by the recent mortgage and economic meltdown.

As America embarks on the long road toward rebuilding its credit reputation, consumer credit bureaus will play an even greater role than before in bringing access to credit products back to the consumer. Thus, consumers will absolutely be paying even more attention to the details of the credit information reported, as well as its impact on their credit scores.

The most astute Financial Industry executives will be placing a greater emphasis on *avoiding* the financial, legal, regulatory and reputational issues that result from erroneous reporting.

This white paper has been written to provide a fundamental look at the process of reporting consumer information along with the impact that reporting errors have on both the consumer and the data furnisher.



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Section 2

FACT ACT 312 & CREDIT BUREAU REPORTING:

What's in store for the collections data furnisher on July 1, 2010?

While FCRA has always mandated that if a data furnisher decides to report data to the credit bureaus then that data must be reported accurately, regulators have rarely (if ever) incorporated data accuracy and credit bureau reporting policies into FCRA examinations. The main objective of FACTA 312 pertains to "accuracy" and "integrity" of data reported to the consumer credit bureaus and instituting requirements that mandate data furnishers implement the appropriate policies and procedures to insure consumer data is accurately reported.

In order to insure that data is being reported accurately at each step of the reporting process, it is prudent to place audit controls at each of the key process steps. First, data should be evaluated for accuracy *prior* to the file being released to the bureaus, thus allowing significant data problems to be corrected prior to reporting. And second, tradeline information must be evaluated *after it has posted to the bureaus* to insure that the information sent by the data furnisher was interpreted and displayed correctly by each bureau.

Additionally, FACTA 312 has shifted the larger portion of the burden of proof to the data furnisher during the dispute process and mandates that furnishers who receive a "direct dispute" initiate the dispute and investigation process. This basically means that if a consumer communicates a dispute of tradeline information (excluding disputed inquiries and/or public records) directly to a data furnisher, the furnisher must not forward the consumer to the credit bureaus to dispute.

Credit Repair agencies will also have a tough time as FACTA 312 will offer relief to data furnishers by no longer requiring reinvestigation when disputes are deemed to be "frivolous or irrelevant."

Possibly the most important item to those credit bureau users hoping for increased data accuracy, and the item of most concern to those collecting debt, will be the new FACTA 312 mandate that **tradelines may no longer be deleted** (*check out the FACTA 312 definition for "integrity"*) unless the account was either fraud or did not belong to the consumer (reported erroneously).



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WHY RISK REPORTING DELINQUENT DEBT?

While using the threat of reporting a delinquency on a debtor's credit bureau to coerce payment **is never allowed**, it is perfectly legal to report delinquent accounts in the normal course of business.

Consumers are bombarded daily with dozens of commercials advertising "know your credit score" and "obtain your free credit report," along with offerings of daily (and even hourly) score monitoring services. The good news is that many of these newly educated consumers are individuals that are proactively seeking to improve their credit scores by actually paying off debt. Not every delinquent debtor is crook! As the economy slowly recovers, a significant portion of those that will be seeking to repay are consumers desperately trying to quickly rebuild their credit as their economic outlook changes.

The bad news is that these newly educated consumers (and their attorneys) also now understand the impact that erroneous negative information has on their credit scores and credit worthiness, causing the incidence of disputes to increase exponentially over the last 5 years.

For those data furnishers that are willing and able to put some effort into evaluating the accuracy and integrity of the data being furnished to the credit bureaus on a regular basis, the pros of credit bureau reporting will most certainly outweigh the cons.

FACTA 312 may seem to be tightening the rope around the industry's neck, but overall, accurate credit bureau reporting saves time and money by getting your debtors to come to you!



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UNDERSTANDING THE CAUSES OF DISPUTES ON PURCHASED ACCOUNTS

It is probably no surprise for you to hear that the majority of disputes surround delinquency reporting. Let's face it, if you are incorrectly reporting a delinquent tradeline as being a "paid/current" status, odds are you are probably never going to hear from that debtor. However, we all know that the second you erroneously report a good account as delinquent you will immediately hear from the debtor ... or worse, their attorney.

So what causes the onslaught of disputes that always seem to immediately follow a portfolio purchase?

1. Not reporting the appropriate segment(s) that identify the prior owner(s) of the account and/or the original lender tends to cause mass confusion when consumers see what they perceive to be a "new" tradeline on their bureau.
2. Purchasing bankrupt accounts that were simply coded in the prior owner's system as a "charge-off." Granted, you can generally remove the tradeline from the consumer's bureau and sell the account back to the prior owner, however, once you have incorrectly reported the trade the damage has already been done.
3. "Not my account." Hear that a lot from consumers? In those instances where the statement is actually true, it generally occurs because you probably did not obtain enough account information from the prior owner for the bureaus to be able to appropriately match the tradeline to the correct debtor.
4. When a delinquent account has been reported past the mandatory seven year drop date it is generally due to obtaining and/or reporting an incorrect Date of First Delinquency.

Evaluating a seller's credit bureau reporting standards as part of your due diligence before you purchase a portfolio is the key to decreasing your disputes and subsequent financial exposure.



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PREPARING PURCHASED ACCOUNTS FOR REPORTING

Getting off to the best possible start!

Put your best foot forward. Preparations should begin before you even start looking for a portfolio to purchase. Due diligence requirements must include credit bureau reporting criteria, as well as data entry, mapping and translation standards. You must insure the prior owner has completed their requirements in reporting and account sale, such as:

1. Reported the information correctly prior to transferring the account to you as the new owner, with special care taken in reporting the correct Account Status, Account Type and Date of First Delinquency.
2. Worked closely with the bureaus to correctly report the accounts as part of an asset sale (sold/transferred). *Note: In cases where you may have merged or purchased an entire portfolio or line of business, you MUST make sure you work closely with the bureaus to receive ownership of the appropriate subscriber codes.*
3. Reported the correct segments denoting the account ownership trail (original and/or prior owners of the account).
4. Provided you with enough fields for the bureau to be able to match the purchased tradeline to the correct consumer once it is transferred
5. Obtained the correct Date of First Delinquency from prior owner(s).
6. Provided you with all legal owners (co-borrowers/jointly liable parties) on the account

Bringing over the correct information from the seller is more than half the battle, along with working closely with each of the bureaus on the first reporting of any new portfolio provides a good foundation for keeping your risk of disputes and financial exposure as low as possible.



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METRO 2[®] VERSUS THE (old) METRO[®] FORMAT

Even though the Metro 2[®] layout has been available for the better part of the last decade, many data furnishers and systems providers have not yet converted their reporting files and/or core systems to meet the new requirements.

Metro 2[®] is not only a bunch of fields within a file layout. It also incorporates additional mandatory regulatory compliance requirements which enable data furnishers to report certain information to a much deeper level of detail than the old Metro layout. For example:

1. Metro 2[®] provides the ability and requirement to report Bankruptcies at an individual level. This means that each liable party on the account has a field available to report bankruptcy on that individual if, and only if that individual has declared bankruptcy. If you are still using the old Metro[®] format, you will report the Bankruptcy at the account level, meaning, it will be associated with all liable borrowers on the account.
2. Similarly, reporting a borrower's association with the account is also required on an individual level. The most significant of which can be associated with reporting of a deceased party. In Metro 2[®], there are separate fields to report deceased on each the primary and co-borrower. If you are still reporting in the old Metro[®] format, you run a high risk of the deceased status showing up on all borrowers associated with the account.
3. While 1 and 2 above offer your most significant litigation risk, the reporting of disputes provides a greater regulatory risk. The Metro 2[®] format provides for reporting a dispute to a much deeper level of detail than the old Metro[®] format. Use of the expanded dispute descriptions available in Metro 2[®] is a mandatory FCRA requirement.

Don't allow your systems provider to dictate your level of compliance. The solution is simple.

Bottom line: If you are not yet reporting in Metro 2[®] – START!



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THE IMPORTANCE OF ROOT CAUSE ANALYSIS:

Researching and reacting!

It's a simple formula – Find the problem. Fix the problem!

Along with providing new guidelines on managing disputes, FACTA 312 also highlights the data furnisher's responsibility to *get to the root of the problems causing the disputes*. Simply deleting tradelines that are incorrect will no longer be a viable reaction to every dispute situation.

FACTA 312 is specific in its requirement that data furnishers do everything in their power to prevent a consumer's bureau from being re-polluted in the future with the same erroneous data that was previously disputed and corrected.

It is especially important to begin investigations when patterns of errors are identified. Multiple disputes for similar issues can tell you a story. In order to prevent re-pollution of a consumer's bureau, when necessary, data furnishers should carefully investigate to determine the root causes of disputes. Among other reasons, root causes can be related to systems coding issues, data mapping, data translation or data entry. In addition, in the instance of portfolio purchases, a root cause may even map back to the original owner or prior owner(s) of the accounts.

Researching is only half of the equation. Regulators and litigators have a much better case when they can prove that the errors continued to reappear on the consumer's bureau.

Once you have found the root cause – FIX IT.



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DEVELOPING CRITICAL RELATIONSHIPS

Know your Credit Bureau data teams!

Most lenders and other data furnishers have fantastic relationships with their credit bureau sales representatives. Sales representatives are always on hand to provide information on new products and services. Let's face it, that's how the bureaus make their money.

When was the last time your data analyst called you? Do you even know who handles your data when the bureaus receive it? Who pushes the button to load the data into the credit bureaus' databases?

If you can't answer these questions, you are not alone. Aside from the teams supporting the largest lenders, the credit bureaus tend to keep that information under wraps. Many times their own data analysts don't have any idea who to contact when they see an issue with the data they receive. So what happens when there is an issue found with your data? Chances are good that the data may not be loaded into their database. You may *think* you are reporting but the tradelines may not be updated due to reject or error reasons.

In addition, for compliance and audit purposes you need to have a documented trail of file delivery and receipt email in order to show examiners that you have controls in place regarding potential data theft or data breach. Someone at each bureau needs to know when and if your data is on its way, and then notify you – IN A TIMELY MANNER – that it has or has not been received.

Developing relationships with your data teams is critical to maintaining the safety, accuracy and integrity of your data. Data analysts are the first defense against bad reporting. Take the first step and find out who supports your data. Let them know who you are and that you are involved in the process and ask for their input on the overall state of your data.



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10 STEPS TO KEEP YOU OUT OF HOT WATER

What steps can you take to manage the growing financial, regulatory and reputational risks of reporting inaccurate data?

1. **Get Ahead of the curve.** No one wants increased regulatory oversight. **Report correctly the first time, before you attract the attention of regulators, litigators and the media.**
2. **Create Strategic Partnerships.** Credit Bureaus need your data to survive. It is a symbiotic relationship. The cleaner your data, the more accurate, profitable and marketable their products are. Treat them like partners, not vendors.
3. **Be Involved.** At a minimum, try to perform annual data audits in conjunction with your Credit Bureau partners. Bureaus tend to ignore Collections data furnishers so try and stay as involved as possible. When requested, the Bureaus will provide reject and error reports each month so you can correct as much as possible before your next reporting cycle.
4. **Keep Them Honest.** Work with your systems provider to create monthly and quarterly reporting. Remember, it's the data furnishers' reputation at stake, meaning any regulatory fines or litigation settlements come out of YOUR pocket!
5. **Junk In, Junk Out.** Evaluate your data reporting compliance risks *before* you purchase a portfolio and make sure you are receiving all pertinent information for every consumer legally responsible for the accounts you are buying!
6. **Tracking Makes Perfect.** Multiple disputes for similar issues can tell you a story. Read it, understand it, and **fix it.**



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7. **Research and React.** Spend the time on root cause analysis rather than simply deleting or blocking disputed trades. Not only are these efforts mandatory under FACTA 312, but they will decrease your regulatory risk and associated fine and litigation costs in the long run.
8. **Beware The Audit.** Get your house in order before questions arise. Developing and, more importantly, maintaining the appropriate process documentation required by FACTA 312 and FCRA is the ticket to low stress reviews.
9. **A Little Goes A Long Way.** An ounce of prevention really is worth a pound of cure. A single FCRA complaint can cost well more than \$1,000 plus legal fees. The FTC actually *raised* FCRA violation fines to \$3,500 in 2009. Limited resources are better spent *avoiding* complaints rather than paying for them.
10. **The Price Of Being Reactive.** Vendors and litigators can smell desperation a mile away. Don't wait until July 2010 when the examiners are at the door. Being *proactive* is definitely cheaper than being reactive!

If you don't have the in-house expertise, get help!

Protecting your debtor really does protect your bottom line!

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If you need help, have questions or would like more information on any of the topics discussed in this white paper please contact:



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Decrease the financial risks associated with regulatory fines and consumer reporting litigation!

CBSC can bridge the gap between the interpretation of FCRA & FACTA Regulations and Process, Policy, Audit and Systems Implementation...

- Work with you to evaluate credit bureau data reporting risks *before, during and after* portfolio purchases or sales
 - Help you implement accurate data reporting across all 3 bureaus
 - Work with the bureaus to correct any *prior* data accuracy issues
 - FACTA 312 & FCRA risk evaluations and compliance program development
 - Manage conversions from Metro to Metro 2 formats for FCRA and FACTA 312 Compliance
 - Develop and manage mandatory data audits and maintain required audit documentation
 - Manage all aspects of your Credit Bureau relationships
- Not reporting yet? CBSC can get you started on the right track and keep you there!**