

NY AG Settlement with Three Largest National Credit Reporting Agencies Promises Critical Reform to Credit Reporting Industry

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On March 9, 2015, New York Attorney General Eric Schneiderman [announced](#) its settlement with the nation's three largest national credit reporting agencies ("CRAs"): Experian, Equifax, and TransUnion. This announcement underscores the recent heightened state and federal regulatory scrutiny in this area, and likely is the first of a wave of broad consumer-facing reforms to the credit reporting industry.

The settlement terms will overhaul existing practices in the credit reporting industry that long has been criticized for its lack of transparency. Indeed, Consumer Financial Protection Bureau ("CFPB") Director Richard Cordray [described](#) the credit reporting industry as a consumer "dead end" last month in a speech to the National Association of Attorneys General. The industry has been "something of a mystery" for decades due in large part to the lack of transparency in how credit report information is used to access consumers' credit-worthiness. A recent CFPB [study](#) found that consumers are confused and frustrated about how to check credit reports and scores, what information these include, and how to improve them. As a result, consumers often do not feel empowered to take action to improve their credit histories, and they rarely apply credit information in their daily lives, such as using their credit reports and scores to negotiate better credit terms.

The settlement seeks to cure the myriad deficiencies that exist in this market. It requires the CRAs to institute the following national reforms over a three-year period:

- **Improved Dispute Resolution Process**

The settlement requires the CRAs to staff specially trained employees to manually review all supporting documentation submitted by consumers for disputes involving fraud, identity theft, or mixed files (for example, when consumer information becomes inadvertently "mixed" into the file of another consumer). Further, for all categories of disputes, the CRA is prohibited from automatically rejecting the consumer's dispute when the creditor verifies the challenged information. These provisions ensure that each dispute is reviewed by personnel and not rejected immediately via an automated process.

- **Improved Processes Related to Medical Debt**

The AG reports that over half of all collection items on credit reports are medical debts. These often

result from insurance-coverage delays or disputes. In light of this, the settlement requires the CRAs to institute a 180-day waiting period before a medical debt is reported on a consumer's credit report. This waiting period will provide extra time to permit resolution of delinquencies that result from insurance delays or disputes. The settlement further requires that the CRAs remove all medical debts from a consumer's credit report after the debt is paid by the insurer.

- **Provisions Related to the Free Annual Credit Report**

The settlement requires the CRAs to include a prominently-labeled hyperlink to the AnnualCreditReport.com website on the CRAs' homepage. In addition, the settlement requires the CRAs to provide a second free credit report to consumers who experience a change in their credit report as a result of initiating a dispute. This requirement will permit consumers to verify that the CRA made the correction to their credit report without having to pay for a second credit report.

- **Furnisher Monitoring**

Finally, the settlement requires more accountability by companies furnishing consumer data to the CRAs. Specifically, the settlement requires the CRAs to create a National Credit Reporting Working Group that will develop a set of best practices and policies to enhance the CRAs' furnisher monitoring and data accuracy. Further, the settlement requires that each CRA implement policies to monitor furnishers' performance and take corrective action against furnishers that fail to comply with their obligations. It is unclear whether there would be consequences for the furnishers' non-compliance with their obligations or for the CRAs' failure to supervise these entities.

The NY AG settlement's robust measures may be the start of a wave of broad consumer-facing reforms. The CFPB recently [announced](#) it would be exercising, for the first time ever, supervisory authority over credit reporting companies. The CFPB further intends to establish clear and regular oversight by supervising the larger credit reporting companies as well as their largest furnishers. Now that the three largest credit reporting agencies have agreed to substantial reform, it is only a matter of time before their furnishers of consumer data follow suit. It is of vital importance for these companies to closely monitor the impending overhaul of current practices and seek prompt legal advice should CFPB initiate enforcement proceedings.

Please contact [Dana Rosenfeld](#) for information regarding this post.