Account Date Accuracy is Critical for FCRA Compliance

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Last month's article discussed how collection agencies require accurate data for accounts referred to collection. Accurate data is not only necessary for effective collections, but also for creditors and collection agencies to avoid legal entanglements. This month's article highlights the importance of one type of data, account dates.

Two account dates in particular are critical in collection operations: (1) the date of first delinquency, and (2) the date of last activity or service. The date of first delinquency is the date that an account became delinquent and was not subsequently brought current. If an account is brought current after a delinquency but then becomes delinquent again, the date of first delinquency would be the first date on which the account fell into delinquency but did not become current again. Accurate dates of first delinquency are important from a collections perspective because federal law allows negative entries to remain on credit reports for only seven years from the date of first delinquency. Consumers' attorneys and government regulators scrupulously calculate the date of first delinquency to ensure that a customer is not "penalized" with negative credit reporting for a longer period of time than allowed.

For example, a customer begins missing regular monthly payments starting in December. One of the later missed payment dates is used as the date of first delinquency instead of the December date. The debtor's attorney and government regulators may claim the customer was harmed by the failure to properly calculate the date of first delinquency. The company referring the account for collection or the debt collector could face a fine from the government or a claim from the customer that the company violated the FCRA. The government recently fined one collection agency one-half million dollars for systematic failures in determining accurate dates of first delinquency. As a result, it is important that the date of first delinquency is calculated correctly.

The second important date is the date of last activity or service. This date is when the company's legal claim accrues. It may be the date a customer missed a scheduled payment or the date of the last voluntary payment made by the customer. This date is often used to determine the statute of limitations, which is the length of time during which a company may bring a legal claim regarding the delinquent account. It is important that this date is also accurately calculated so a collection agency knows how long its collectors should work on collecting an account before a decision must be made to take legal action.

To prevent miscalculating the date of first delinquency or the date of last activity or service, it can be helpful to have a standardized written policy so that all accounts meeting certain criteria are treated in a similar manner. If it is suspected any dates were calculated incorrectly, it is important to quickly bring the discrepancy to the attention of the debt collector to provide the best opportunity to avoid errors in the collection process and entanglements with government regulators and debtors' attorneys.