



September 17, 2004

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

RE: Docket No. OP-1209  
Request for Information for Study on Investigations of Disputed Consumer  
Information Reported to Consumer Reporting Agencies

Dear Ms. Johnson:

The Mortgage Bankers Association (MBA)<sup>1</sup> appreciates the opportunity to respond to the Federal Reserve System's request for information on the study it will conduct pursuant to the Fair and Accurate Credit Transactions Act of 2003 (FACTA) regarding investigations of disputed consumer information reported to consumer reporting agencies.

We welcome this study as a means for the Federal Reserve System to better understand some of the challenges the mortgage industry and other creditors face in dealing with the accuracy of consumer credit histories. Mortgage lenders rely heavily on the information reported to the credit reporting agencies (CRAs) as a way to evaluate a borrower's risk of non-payment. Failure to have correct information results in credit being granted with terms not appropriately gauged to risk, denials of credit or the making of unsound loans.

With the advent of credit scores and the reliance on payment behavior in automated underwriting systems, accuracy is critical. Mortgage companies make every effort to provide accurate information to the CRAs and to comply with the Fair Credit Reporting Act (FCRA) and FACTA. Credit reporting agencies also play a significant role in ensuring accuracy by establishing communication procedures for transmitting information and for processing the information received from furnishers.

---

<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership prospects through increased affordability; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters excellence and technical know-how among real estate finance professionals through a wide range of educational programs and technical publications. Its membership of approximately 2,700 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: [www.mortgagebankers.org](http://www.mortgagebankers.org).

As you are aware, FCRA and FACTA do not mandate reporting of consumer information and thus, in theory, credit reporting is voluntary. Most mortgage companies, however, are required by investors and government entities, such as Fannie Mae, Freddie Mac, and HUD to report "full file" credit information each month to the four major CRAs -- Equifax, Experian, Innovis and TransUnion. "Full-file" reporting means that the mortgage company must describe the exact status of each mortgage it is servicing as of the last business day of each month. Statuses that must be reported for any given mortgage include: new origination, current, delinquent (30-, 60-, 90-days, etc.), foreclosed, and charged off. In sum, the "full file" concept requires that servicers report both positive and negative credit information on each loan.

Unfortunately, the data exchange between mortgage companies and CRAs has not always been smooth. While we believe great strides have been made to improve communications between servicers and CRAs in recent years, residual effects of past problems with information exchange and continued limitations to communication vehicles may contribute to accuracy problems. Moreover, schemes have surfaced to derail servicers' and CRAs' abilities to comply. We would like to outline some of the problems the mortgage industry has faced and continues to face. Following this overview, we will provide answers to specific questions requested by the Notice.

- Rejection of Records without Notice. Lenders send monthly customer credit information to the four CRAs by tape or computer-to-computer Electronic Data Interchange (EDI). As a result of company audits, servicers became aware that Individual records were being rejected by the CRAs due to format/data errors. Unfortunately, servicers are not notified of the rejections or provided with the loan level detail necessary to identify which records are rejected and for what reasons. Upon request, MBA is told that some CRAs are able to offer summary reports, but these reports merely indicate how many records were received and how many were rejected (i.e., 60,000 records reported 1,000 rejected). CRAs have made an effort to provide loan level data when requested, but unfortunately when it is presented it is in an unreadable Hexadecimal format.

According to our members, the primary reason for rejected data is the inclusion of hyphens. A hyphenated last name or street address will reject under the Metro 2 format. Other reasons for rejection are lack of a trade-line for the creditor, incorrect address format, and excessive number of middle initials just to name a few. While servicers make every attempt to convert the legally accurate information from their servicing systems to the Metro 2 format, errors do occur, as can be expected with any data conversion process.

- Processing Monthly Submissions & Corrections: Currently, there are delays between the date servicers report monthly credit information to the CRAs and the time the information appears on individual consumers' credit reports. MBA

members indicate that the current delay is approximately 35 days. This is a much improved timeline. Nonetheless, this delay does cause borrowers to question the accuracy of their credit reports, often multiple times. Servicers indicate that there are also significant delays in reflecting corrections made by paper. Servicers who must still report paper corrections indicate that it can take several months for a credit report to reflect a submitted correction. The delays contribute to repeated requests from consumers to fix the information.

- E-OSCAR: The Consumer Data Industry Association (CDIA) in cooperation with Equifax, Experian, Innovis and TransUnion, developed the Online Solution for Complete and Accurate Reporting (E-OSCAR), a very useful internet-based tool for electronically submitting corrections or changes to consumer credit information. E-OSCAR is a fee-based subscription service paid for by the furnisher. E-OSCAR is now the primary method for communicating with the CRAs regarding consumer disputes and corrections. Prior to the development and implementation of E-OSCAR, corrections were submitted via fax or mail. Use of the mail resulted in shortened compliance timelines for both CRAs and servicers. While faxes were more expeditious, there was no way to confirm that the CRAs received the information. Failure to get confirmation could result in the disputed item or even the entire trade-line being deleted, which in turn, causes the continued rejection of monthly information.

E-OSCAR is a welcomed system because it allows: (1) the transmittal of consumer disputes to servicers in a very timely manner, (2) the expeditious receipt and processing of corrections by the CRA, and (3) an electronic log of disputes and responses. One of the best outcomes of E-OSCAR is the quickened timeframe for processing corrections. What took months, now takes on average 3-7 days. While E-OSCAR is an excellent communication vehicle, there are some limitations to the system.

First, it is unclear whether all mortgage servicers and other creditors have access to E-OSCAR. As of July 2004, several servicers indicated they did not have access to the system. Despite this fact, all CRAs have discontinued acceptance of faxed corrections and the CRAs have announced their plans to eliminate acceptance of mailed or paper corrections in the very near future. It is, therefore, unclear what vehicle these mortgage companies will have to make corrections.

Second, servicers are concerned that E-OSCAR cannot confirm receipt of the information submitted by servicers (making US mail a preferred means of showing proof of mailing, but this option is being phased out).

Finally, E-OSCAR is not designed to accept batch file corrections. Individual corrections must be manually input, increasing the risk of error. For large

servicers, especially those who service over 4 million loans, manual data processing is problematic.

- Abuses to Overwhelm the System. Over the last year, servicers have encountered abuses by borrowers and credit repair companies. These individuals and entities send multiple disputes that hamper the ability of the CRAs to relay the disputes to furnishers in 5 days. This scheme also overwhelms servicers' ability to investigate and resolve complaints within the statutory timelines. The end result is the removal of accurate, but negative credit information or even the removal of the entire trade-line.
- Failure to Accept Overlays. When first introduced, one of the touted benefits of the Metro 2 format was the 24-month overlay feature, which would allow furnishers to report a rolling 24-month history each month. This option was a welcomed enhancement because corrections could be made to historical information without having to make a separate correction by paper (at the time). Servicers could simply correct the information on their servicing systems and the corrections would travel to the CRAs as part of a regular monthly transmission. This option would simplify reporting and corrections and remove delays in getting the information reflected on credit reports. Unfortunately, the 24-month overlay is not a standard Metro 2 feature and many transmissions of the overlays were rejected by the CRAs without notice. We believe this problem contributed to accuracy problems. Today, however, most servicers have been alerted of the separate contract requirements necessary to execute the 24-month overlay. Not all servicers use the overlay feature.
- Bankruptcy. Reporting of bankruptcies continues to be a problem for servicers. There is no single entity that resolves policy questions. As a result, each company or investor adopts rules it feels are fair and appropriate. One prime example of interpretational problems servicers face is the treatment of bankruptcies. A common problem is how to report a borrower whose mortgage debt was discharged in bankruptcy and not reaffirmed, but the borrower remains current on the loan payments. A servicer will not seek foreclosure in these situations. Servicers are unclear whether to report the debt and how to report the status of the loan. Moreover, servicers continue to have inconsistent updates on the status of a borrower's bankruptcy. Courts and borrowers often fail to inform servicers of bankruptcy court actions, such as discharges.
- Data Standards: Software companies, along with the mortgage industry and other financial services companies are moving to eXtensible Markup Language (XML) formatting for reporting and transmitting data. XML allows for translatable information that can be easily read by most software programs and individuals (if necessary). Metro 2, however, is based on a character delimited format, which is not easily read or audited and limits quality control efforts by servicers.

Furthermore, character delimited formats are more expensive to implement and maintain (for any company). We are concerned that in a short period of time, mortgage companies and other furnishers will be unable to communicate effectively with the CRAs.

We hope that this overview has provided the Federal Reserve with a better understanding of the challenges servicers face and why inaccuracies in consumer information have occurred and may continue in the future. What may appear to be servicer non-compliance, may not be the case. We believe this backdrop is important as we delve into the specific questions requested by the Notice.

Specific Questions:

I. General Information

***What type of entity reports negative and/or positive information to a consumer reporting agency and what type of entity does not report negative and/or positive information to a consumer reporting agency? If an entity does not report information to a consumer reporting agency, why not?***

All mortgage companies, who either hold loans in portfolio or are contracted to perform servicing on behalf of investors, report credit information to CRAs. Although we have not conducted any formal investigation, it is our understanding that the majority of all servicers report both positive and negative information as a general rule. As stated above, Fannie Mae, Freddie Mac and HUD require their servicers to report both positive and negative information. There are situations, however, where servicers do not report negative information:

For example, Fannie Mae and Freddie Mac require servicers to report forbearances as military indulgence if the borrower is a servicemember on active duty and eligible for benefits under the Servicemembers Civil Relief Act (SCRA).

Under RESPA, servicers may not report a borrower delinquent if the borrower sends his/her mortgage payment on time to the transferor (old servicer) within the first 60 days after the transfer date. In order to avoid non-compliance, most servicers simply suspend all delinquency reporting for 60 days after a servicing transfer. While technically the servicer could report delinquent borrowers who failed to meet the specific statutory conditions, few servicers do. As a result, servicer under-report delinquencies when servicing transfers occur.

As stated above, servicers also may choose not to report payments received on loans discharged in bankruptcy because it is unclear whether the balance of the debt can be reported if discharged without affirmation. Other situations give rise from time to time to underreporting.

***Of all the disputes received by the furnisher, what percentage of the disputes or complaints comes through a consumer reporting agency? What percentage comes directly from consumers? What percentage comes from other sources (e.g., credit repair entities)?***

Servicer experience varies. Approximately 65-70% of disputes come through the CRAs; 25-30% come directly from the borrower and approximately 5% come from other sources (credit repair agencies, attorneys, parents/other family members). Please note, however, that abuses have occurred where a flurry of multiple requests are made by the borrower or credit repair entity in an effort to get the negative information removed. It is difficult, therefore, to estimate the percentage of requests that would be considered abusive.

II. Disputes Communicated by Consumers Directly to Furnishers

***Does the furnisher provide an address for consumers to use if they want to dispute information directly with the furnisher? If not, why? If an address is provided, how is the consumer informed about this address?***

Servicers provide a general address and toll-free number on all communications to borrowers (monthly statements, late notices, escrow analyses, etc) that can be used for any customer service need, including questions or disputes about their credit history. As a result, mortgage servicers do not, at this time, provide a separate dedicated number or address solely for the receipt of consumer credit disputes. Servicers are willing to take verbal disputes in some cases, but generally will ask the consumer to send a written request and a copy the credit report if the dispute cannot be resolved over the phone on the first call. This ensures the servicer has sufficient information to investigate the particular complaint and respond to the consumer. The majority of telephone complaints are from consumers who need only to understand how to read the credit report (e.g., which month they were delinquent).

***Regardless of whether an address is provided, what is the furnisher's process and timeline in handling disputes and complaints that come directly from consumers? Under what circumstances do furnishers currently investigate disputes regarding information in a consumer file, based on a direct request of the consumer?***

MBA estimates that mortgage servicers take approximately 1 –10 days to investigate a dispute and send a correction to the CRAs. Of course this timeline could vary on specific cases depending on the difficulty of the request and volume.

Generally, when a servicer receives a written dispute the letter is date stamped and forwarded to staff for investigation. The person assigned to the task will review the

information on the credit report provided by the consumer and compare it with corporate records. If the disputed information is correct a letter is sent via regular mail to the borrower indicating such fact. No communication is sent to the CRAs. If the disputed information is incorrect, a letter is sent via regular mail to the borrower indicating such fact (copies are sometimes sent to the four CRAs), the correction is reflection on the CRAs' "Consumer Dispute Verification Form" and the form is mailed to the CRAs (if not on E-OSCAR) or the information is corrected on E-OSCAR. If evidence was provided showing that the information was incorrect in the servicer's system, the information is corrected and is reported correctly the following month if the overlay feature is used.

**Is sufficient relevant information provided to the furnisher by the consumer? If not, what relevant information is often missing and why? If relevant information is lacking, how does the furnisher resolve the dispute?**

Generally, most consumers provide sufficient information. On occasion, however, borrowers will refuse to send in the credit report or evidence (e.g. cancelled checks) evidencing timely payment. If the servicer has authority through the CRAs to access its trade-line without impacting the borrower's credit score (i.e., as an inquiry), then the servicer will review the trade-line as it appears in the CRAs' databases, if this analysis is relevant to the dispute. If this does not resolve the matter, meaning that the disputed information is correct, a letter will be sent saying that the information is correct. The borrower will be informed again to send in evidence to support his/her claim. If insufficient evidentiary information is provided, the dispute will be considered resolved. If the borrower continues to dispute the issue, it may be escalated to a corporate response team that will conduct further investigation and send further communication requesting the evidentiary documents.

### III. Other Furnisher Duties

***How does the furnisher ensure that it complies with the applicable statutory requirements regarding the accuracy and completeness of information it reports to the consumer reporting agency?***

Servicers report information that is represented on their servicing systems. Those systems reflect actual payment histories of borrowers. Sophisticated technology at lock box facilities process payments and post them to individual borrowers' accounts. Audits are performed on this function on a regular basis and some servicers audit when mail is postmarked (through bar coding of envelopes or retention/imaging of envelopes). Thus as a primary tool, servicers rely on the information technology systems they use to ensure accuracy. Also helpful is the system of late payment notices. Late payment notices trigger reviews and responses by consumers. If the borrower disputes a late notice, the servicer will conduct an investigation as required by FCRA and FACTA. Credit information will be corrected if inaccurately represented on the servicing system as described above. It is important to point out that the failure to reflect corrected

information on a credit report does not mean the servicer continued to report inaccurate information after resolution, but often represents delays in processing the information by CRAs. A servicer will send multiple corrections to the CRAs in these cases.

Some servicers will also periodically conduct audits to determine if the information they are reporting is being reflected on consumers' credit reports. This option is not universally available because not all servicers are authorized to pull their trade-lines without impacting the borrower's credit score. Nonetheless, the dispute/resolution process under FCRA (and under FACTA) provides another method for case-by-case audits/investigations.

***What are the furnisher's procedures and timelines if it finds the information is not complete or accurate?***

See previous response.

***What are the furnisher's procedures and timelines for reporting information that has been directly disputed by a consumer?***

Regardless of whether the dispute comes from the CRAs or the consumers, the process and timelines for investigating the dispute are the same. See previous response.

***What are the furnisher's procedures and timelines for reporting when a delinquency began on an account that has been placed for collection, charged off, or subjected to similar action?***

The first delinquency date and/or the charge off date are reported in the monthly data filed with each major CRA. Credit reports are sent monthly, usually between the 5<sup>th</sup> - 10<sup>th</sup> of the following month. Thus a loan with a due date of August 1, will be considered 30 days past due on the last day of August. August credit information will be transmitted to the CRAs on September 5<sup>th</sup>. Delinquencies will be represented in the month that they occur. The only situation that may cause a delay in reporting is due to SCRA or RESPA compliance. As stated above, in order to comply with RESPA servicing transfer laws, servicers do not report borrowers who become delinquent within the first 60 days after a transfer, thus the first reporting of a valid delinquency could be a 90-day delinquency. A similar situation would occur with SCRA.

***What are consumers' experiences with furnishers reporting that credit accounts with the furnishers have been voluntarily closed? What is the time span between the consumer closing the account and information about the closure appearing on the credit report?***



Servicers report closed accounts every month. Credit reports will reflect the closing of an account (e.g., payoff) after each servicer's information is processed, which generally takes 35 days from receipt of the monthly information from the s.

IV. Disputes Reported by Consumers Directly to CRAs

***When a consumer reporting agency receives notice of consumer disputes and forwards the information to the furnisher, how does the consumer reporting agency provide the furnisher with the notices and relevant information? What information does the consumer reporting agency transmit to the furnisher? Describe any guidelines or procedures, voluntary or otherwise, that apply to this process.***

Standardized paper notices of disputes, e.g., Consumer Dispute Verification forms, are mailed to servicers who are not on E-OSCAR. Companies that subscribe to E-OSCAR will receive the information on the Consumer Dispute Verification form electronically through that system. The form provides a limited explanation of the dispute. The CRAs do not send a copy of the credit report or original communication from the borrower, but this is not problematic.

***What are the furnisher's procedures and timelines for investigating the disputes and reviewing the information provided?***

See previous response. Furnishers have 25 days to respond to the CRAs or the disputed information or trade-line is removed by the CRA.

***Is sufficient relevant information provided to the furnisher by the consumer through the consumer reporting agency? Is all relevant information from a consumer provided to the furnisher through the consumer reporting agency? If not, what relevant information is often missing, and why? If relevant information is lacking, how does the furnisher resolve the disputes?***

The CRA(s) identify the issue being disputed. The information describing the dispute is often cursory, but is generally not problematic. If the CRAs fail to communicate relevant information, the servicer will contact the borrower directly for this information.

***If the furnisher finds that the information it reported to the consumer reporting agency was incomplete or inaccurate, what steps does the furnisher take? If the furnisher does not find the information reported to the consumer reporting agency to be incomplete or inaccurate, what steps does the furnisher take?***

If the information is deemed correct, a letter is sent via regular mail to the consumer indicating that the information was correct. The information is therefore, not removed or corrected in the trade-line.

If the information is deemed incorrect, a letter is sent to the borrower via regular mail indicating that the information was incorrect and a correction will be made. To communicate the correction to the CRAs, there are distinct processes for furnishers on E-OSCAR and those who are not. If a servicer subscribes to E-OSCAR, the changes are requested through that system electronically. Submissions are done daily and corrections are usually reflected in customers' credit reports within 3-7 days. If the servicer does not have access to E-OSCAR, the correction is mailed to the CRAs. As stated previously this paper/mail option will expire entirely in the near future and will eliminate the only free corrections option (Furnishers pay a fee to gain access to E-OSCAR). Unfortunately, paper corrections can take months to be reflected in the customer's credit report. Concurrently, if appropriate, servicers' systems are updated so the information will not be sent in the future through overlay.

The CRAs will also block the receipt of information that was removed for failure to respond timely or removed because of inaccuracy. Although not required by law, some servicers will not report an item that is "in dispute." This occurs most often when a borrower disputes a late payment notice. Failure to report will improve the borrower's credit score. This option, however, allows for borrower and credit repair agency abuse. By merely filing a dispute, whether genuine or not, the borrower is granted a 30-45 day period to obtain credit without the impact of the derogatory information. Alternatively, some servicers place a "dispute" indicator on the credit record. When a dispute originates from the CRAs, a "dispute" indicator appears to always be placed on the record. The "dispute" indicator does not improve or change the borrower's credit score. Most servicers report the disputed item (or do not remove a disputed item) until the investigation is complete. Corrections follow when appropriate.

It is important to note that mortgage companies do not regularly report to credit bureaus (resellers) unless necessary to expedite corrections to a particular file for origination purposes. Unfortunately a correction at the credit bureau level will not affect or improve the credit score until the information is updated at the CRA level. Because mortgage companies rely heavily on the credit scores (especially through Fannie Mae's and Freddie Mac's automated underwriting systems), consumers may not receive improved credit terms until the CRAs update the borrower's credit score. We are aware that borrowers will frequently pay off credit card debt, delinquent accounts, or judgments in order to improve credit scores or debt-to-income ratios in order to qualify for home financing. Immediately upon paying off these accounts, borrowers contact the creditors to seek a "correction" to the trade-line to show a reduced balance or payment of a judgment. Technically, these types of changes are considered "updates" because they represent regular activity on the account that occur during the current month and thus are reported with the monthly report. Such requests or disputes overload the corrections process and do not necessarily speed up improvement to the *credit score*. Credit bureaus are often able to adjust the trade-lines faster and thus are used for

improving a borrower's *debt-to-income ratio* or removing incorrect information, such as delinquencies.

***Describe any guidelines or procedures that may apply to the treatment of information that continues to be disputed by the consumer after the formal dispute process has been concluded. How often do the furnisher and consumer fail to reach an agreement after the conclusion of the formal dispute process, for example, where the consumer maintains that the disputed information is inaccurate and the furnisher maintains that it is accurate?***

The servicer will continue to offer the borrower the option of submitting evidentiary information. Depending on the size of the institution and the nature of the dispute, the issue may be escalated for additional research. Servicers indicate they have very few cases that cannot be resolved.

**Recommendations:**

***What, if any, legislative or regulatory changes do you recommend beside changes made by the FACT Act and its implementing rules? How would these recommendations improve the system? What benefits or burdens should be considered?***

- 1) Limit the number of disputes allowed to be filed by a consumer or credit repair agency within the investigation time period on the same issue on the same trade-line.
- 2) Provide a simple procedure for furnishers to add or restore a deleted trade-line.
- 3) Maintain a free alternative to E-OSCAR for CRA acceptance of corrections from furnishers.

In addition to legislative or regulatory recommendations, MBA and individual members will work with the CDIA and CRAs to:

- 1) Provide servicers with detailed reconciliation reports on the number of records submitted to the CRAs and the number of accounts or records processed and rejected. Provide report errors for individual consumer records not accepted into the CRAs' databases to allow servicers to correct individual consumer information submitted.
- 2) Provide quicker updates to CRA databases.

- 3) Allow furnishers to provide comments when responding to E-OSCAR messages in the same manner as the paper forms. E-OSCAR does not currently allow any comments from furnishers, which we believe can contribute to inaccuracies.
- 4) Ensure better record matching criteria by the CRAs to ensure accurate consumer record updating by the CRAs.
- 5) Ensure that CRAs' websites generate the same credit report and same credit score as the reports provided to furnishers.
- 6) Provide confirmation that the CRAs' systems have been updated with the corrections/updates provided by furnishers through E-OSCAR.
- 7) Utilize uniform data standards to ensure the compatibility of software programs and formatting using XML.
- 8) Create batch filing of corrections through E-OSCAR.

### **Conclusion**

MBA believes the accuracy of credit information is critical. We, therefore, greatly appreciate the opportunity to discuss these very important issues. We would also welcome the opportunity to meet with your staff to discuss the study further. Please contact Vicki Vidal, Senior Director, at 202/557-2861 if you have any questions.

Most sincerely,



Jonathan L. Kempner  
President and Chief Executive Officer



October 18, 2004

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

RE: Additional Comments - Docket No. OP-1209  
Request for Information for Study on Investigations of Disputed Consumer  
Information Reported to Consumer Reporting Agencies

Dear Ms Johnson:

This letter supplements our previous response to the Federal Reserve System's "Request for Information for Study on Investigations of Disputed Consumer Information Reported to Consumer Reporting Agencies," which the Mortgage Bankers Association<sup>1</sup> (MBA) delivered on September 17, 2004. In particular, we would like to clarify that our previous comments focused on Fair Credit Reporting Act (FCRA) compliance and did not highlight the industry's compliance with the Real Estate Settlement Procedures Act's (RESPA) Qualified Written Requests.

RESPA and its implementing Regulation X provide specific requirements for handling servicing transfers. 12 USC § 2605 *et seq.*; 24 CFR § 3500.21. Although the main focus of the provision is on the transfer of mortgage servicing from one servicer to another, RESPA also includes a procedure under which a consumer can assert that an error has occurred or request more information about the account. That procedure is triggered when the consumer files a "Qualified Written Request" (a "Request") with the mortgage servicer. To meet the definition of a Qualified Written Request the borrower

---

<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 400,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership prospects through increased affordability; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters excellence and technical know-how among real estate finance professionals through a wide range of educational programs and technical publications. Its membership of approximately 2,900 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: [www.mortgagebankers.org](http://www.mortgagebankers.org).

must submit the correspondence to the servicer in writing and the notice cannot be on the payment coupon or other payment medium supplied by the servicer. The servicer may, but is not required to, provide a dedicated address for such Requests.

During the 60-day period after receipt of a Request, the servicer may not report adverse credit information on any payment that is the subject of the Qualified Written Request to a consumer reporting agency. The servicer must provide a written acknowledgement to the borrower within 20 days of receipt of the Qualified Written Request, unless the servicer takes the action requested by the borrower during that period. The servicer then has 60 days to investigate any dispute or provide any information that the borrower requested. If the servicer concludes that the account is correct, it must explain the reasons for its position; otherwise, it must correct the account (including any late charges or penalties) within the 60-day period.

RESPA also provides that transferee servicers may not impose late fees for 60 days following a servicing transfer if the borrower's payment is made timely to the transferor (old) servicer but is delayed in reaching the transferee (new) servicer.

Our previous comments did not specifically outline the procedures servicers put in place for dealing with Qualified Written Requests. Our response was intended to deal with disputes that fall under FCRA and are not Qualified Written Requests under RESPA.

It is important to emphasize that servicers follow the requirements of RESPA and Qualified Written Requests when applicable. As a result, procedures vary depending on whether the dispute is received through the CRAs (under FCRA); sent directly to the servicer as a Qualified Written Request; or is a dispute not subject to RESPA. As previously stated, most servicers surveyed indicated that they complete disputes within 1-10 days, regardless of which law applies. However, whether the dispute qualifies as a Qualified Written Request will determine whether the servicer continues reporting the dispute to the CRAs (see page 10 of our previous comments) and which timeline applies. In addition, the governing law will determine whether the servicer reports an item as disputed. When a servicer suppresses the reporting of adverse information under RESPA, a "dispute" code is not necessary.

We appreciate the opportunity to offer these additional comments regarding RESPA to explain why servicers have different procedures for resolving consumer disputes. Please contact Vicki Vidal at 202/557-2861 if you have any questions or wish to discuss this matter further.

Most sincerely,



Jonathan L. Kempner  
President and Chief Executive Officer