

### **III. A. Blocking Information in Credit Reports under Sections 605B and 623(a)(6)**

Under section 605B of the Fair Credit Reporting Act (FCRA), both the credit reporting agencies (CRAs) and the creditors, debt collectors, and other companies that reported the identity theft-related information to the CRA (furnishers) are responsible for blocking fraudulent information from appearing in victims' credit reports

#### **Credit Reporting Agency Obligations**

CRAs are required to block fraudulent trade lines (a line item on a credit report reflecting an account the consumer did not open or a transaction the consumer did not make) and other inaccurate information, such as unauthorized inquiries, that result from identity theft from appearing on an identity theft victim's credit report. The victim must provide the CRAs with the following information in writing:

- A copy of an Identity Theft Report (Report). (For more information about Identity Theft Reports, see [Section II.B.](#))
  - The victim must have filed the Report with law enforcement.
- A letter explaining what information is fraudulent as a result of identity theft.
  - The letter should state that the information does not relate to any transaction that the consumer made or authorized.
- Proof of identity, which may include the consumer's Social Security number, name, address, and other personal information requested by the CRA. (For more information on proof of identity, see [Appendix A.3.](#))

FCRA § 605B(a), 15 U.S.C. § 1681c-2(a). You can use the checklist at [Appendix B.3](#) to guide your clients in the section 605B blocking request process with CRAs. Sample consumer dispute and attorney follow-up letters are available at [Appendix C.1](#). Different information may appear in each of the three credit reports, so your client will need to customize her letters and attachments for each CRA.

A CRA must block the fraudulent information the victim has identified within four business days after accepting her Identity Theft Report. When it accepts the Identity Theft Report, the CRA also must notify the furnishers of the fraudulent information that the victim has filed the Report, that the Report states that the information they furnished resulted from identity theft, and that it is blocking the information that they furnished. FCRA § 605B(b), 15 U.S.C. § 1681c-2(b).

The CRA may decline to accept the victim's Identity Theft Report if it reasonably concludes that the Report does not contain enough detail for the CRA to verify the alleged identity theft. 16 C.F.R. Part 603.3(a)(3). In that event, unless it is refusing to block the disputed information based on the criteria described below, the CRA is obligated to request additional information from the victim within certain timeframes, which are covered in detail in the 605B Checklist in [Appendix B.3](#). 16 C.F.R. Part 603.3(a)(3)(i) – (iii).

After reviewing the additional information provided by the victim, the CRA may refuse to block the disputed information, or it may remove an existing block, if it reasonably determines that the consumer:

- (1) has not told the truth about her identity theft;
- (2) erroneously requested the block; or
- (3) acquired goods, services or money as a result of the transactions identified in the blocking request.

FCRA § 605B(c)(1), 15 U.S.C § 1681c-2(c)(1).

The law does not specifically require the CRA to notify the victim if and when it accepts her Identity Theft Report and places the block, or that it has notified the furnishers of the situation. It must, however, notify the victim if it refuses to place or removes the block. FCRA § 605B(c)(2), 15 U.S.C. § 1681c-2(c)(2). Therefore, to verify that the CRA has accepted the victim's Identity Theft Report and has placed a block, the victim should order a copy of her credit report two to three weeks after sending the blocking request to the CRA. The victim also should continue to monitor her credit report to see if the blocked information reappears, or for evidence that the furnisher has sold the debt to a third party for collection. If you believe a CRA or furnisher has violated the provisions of section 605B, 623(a)(6), or 615(f), please report this information to the Federal Trade Commission at <https://www.ftccomplaintassistant.gov/> or via email to [probonoguide@ftc.gov](mailto:probonoguide@ftc.gov).

### **CRA Notification Triggers Information Furnisher Obligations**

As explained above, when a CRA accepts a victim's section 605B blocking request, it must promptly notify furnishers of the relevant information that their information has been identified as fraudulent in the Identity Theft Report. FCRA § 605B(b), 15 U.S.C. § 1681c-2(b). Such notification by a CRA triggers two obligations for the furnisher. First, under FCRA section 623(a)(6)(A), the furnisher may not continue to report that information to any CRA. FCRA § 623(a)(6)(A), 15 U.S.C. § 1681s-2(a)(6)(A). Second, under FCRA section 615(f), it may not sell or transfer that debt to anyone else who would try to collect it. FCRA § 615(f), 15 U.S.C. § 1681m(f).

**Note:** Under the FCRA, a furnisher that is notified *by a CRA* that it has accepted the victim's Identity Theft Report **must** comply with the two requirements described above. In other words, under section 605B(b) of the FCRA, the furnisher may not continue to report the blocked information, or place the debt for collection, when it has been notified by a CRA that the information is the result of identity theft.

## Contacting the Information Furnisher Directly

In addition to filing an Identity Theft Report with the CRA, a victim may also file an Identity Theft Report directly with the furnisher that provided the inaccurate information to the CRA. A furnisher receiving a compliant Identity Theft Report directly from a victim is required to stop reporting the inaccurate information to the CRAs, unless it subsequently knows or is informed by the consumer that the information is correct. The furnisher is *not* required to stop any attempts to sell the debt to a third party for collection. FCRA § 623(a)(6)(B), 15 U.S.C. § 1681s-2(a)(6)(B).

A furnisher receiving an Identity Theft Report directly from a victim may decline to accept the Identity Theft Report only when it reasonably determines that it cannot verify the victim's allegations from the Identity Theft Report. It must then request additional information and documentation from the victim, within certain timeframes. 16 C.F.R. § 603.3(a)(3). The furnisher may specify an address for receiving Identity Theft Reports.

[Appendix C.1](#) contains sample letters from consumers and attorneys to furnishers requesting that the furnisher cease furnishing the disputed information pursuant to section 623(a)(6)(B), and enclosing the FTC Notice to Furnishers referencing additional furnisher obligations that are triggered upon notification by a CRA that it has placed a block on the information provided by that furnisher.

**Note:** When the victim provides her Identity Theft Report directly to the furnisher, the statute does not require the furnisher to notify the victim if it ultimately refuses to accept the Identity Theft Report, or resumes reporting the disputed information. To remove this uncertainty, it is recommended that the victim's dispute letter request an explanation of the furnisher's decision in writing. The victim should monitor her credit reports after filing her Identity Theft Report with a furnisher to ensure that the disputed information does not reappear on her credit reports and that the debt has not been sold to another party for collection.

If the victim wants to avoid triggering the limitations associated with the provisions of FCRA section 623(a)(6)(B) and 16 C.F.R. § 603.3(a)(3) (*i.e.*, that the furnisher may a) sell the account for collection or b) request additional information from the victim unless or until the furnisher receives notification from a CRA that it has placed a block on the information provided by that furnisher), her dispute with the furnisher should not invoke the blocking process. She therefore should **not** include an Identity Theft Report in the written dispute she sends to the furnisher. There are sample letters to furnishers disputing inaccurate information on a credit report under FCRA section 623(a)(1)(B) in [Appendices C.2.c](#) and [d](#) of this guide. As long as the victim's Identity Theft Report and blocking request are accepted by a CRA, and the CRA notifies the furnisher, the victim will obtain the benefits of section 605B and 623(a)(6)(A).

**Note on Private Rights of Action:** The FCRA provides a federal private right of action for violations of section 605B. Sections 616 and 617 of the FCRA set out the conditions under which federal law may provide for a civil cause of action, as well as the damages that may be available. Your client may also have remedies under state law.