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# Treasury Financial Manual

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## Chapter 4000

### AGENCY USE OF CREDIT REPORTS AND REPORTING OF FEDERAL NONTAX DEBTS TO CREDIT BUREAUS

This Treasury Financial Manual (TFM) chapter provides guidelines for federal agencies to use when obtaining credit reports and reporting information on current and delinquent debts to credit bureaus.

#### Section 4010—Scope and Applicability

The provisions of this TFM chapter:

- Apply to federal agencies that report current and delinquent debts to credit bureaus pursuant to 31 U.S.C. § 3711(e) and OMB Circular A-129,
- Govern the reporting by federal agencies of current and delinquent debts to credit bureaus,
- Address certain issues associated with federal agencies' use of credit reports, and
- Supersede all versions of the "Guide to the Federal Credit Bureau Program."

Nothing in this TFM chapter intends to suggest that the United States or any federal agency is subject to the obligations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (FCRA), that FCRA is applicable to the reporting of federal agencies to credit bureaus, or that sovereign immunity has been waived with respect to any of FCRA's provisions. Agency personnel should consult their counsel for guidance on whether and/or how to comply with FCRA.

#### Section 4015—Authority

The Department of Treasury, Bureau of the Fiscal Service (Fiscal Service) is authorized to promulgate regulations and establish guidelines to assist federal agencies in the performance of debt collection activities, including the use of credit reports and reporting of current and delinquent debts to credit bureaus. Pub. L. No. 104-134, §§ 31001(m)(1) and 31001(aa)(1), 110 Stat. 1321-358 (1996) (codified at 31 U.S.C. §§ 3711(g)(10) and 3711 note, respectively); 31 CFR § 901.4.

There are several authorities relevant to federal agency's use of credit reports

and reporting of information on current and delinquent debts to credit bureaus:

- 5 U.S.C. § 552a(b)(12) allows federal agencies to disclose information from their systems of records to credit bureaus in accordance with 31 U.S.C. § 3711(e),
- 31 U.S.C. § 3711(e)(1) requires federal agencies to report delinquent debts to consumer reporting agencies,
- 31 U.S.C. § 3711(e)(5) authorizes federal agencies to report current debts to consumer and commercial reporting agencies,
- 31 U.S.C. § 3711(h) authorizes federal agencies to obtain consumer reports (or comparable credit information) to collect, compromise, or terminate collection action on any debt,
- 31 U.S.C. § 3720(B) generally prohibits federal agencies from granting a loan, loan guarantee, or loan insurance to persons that owe one or more delinquent debts, and
- OMB Circular A-129 requires federal agencies to report all current and delinquent commercial debts to credit bureaus.

#### **Section 4020—Terms and Definitions**

The following terms are defined for the purposes of this TFM chapter:

**Commercial Debt**—A debt arising from a business activity of the debtor. See Section 4030.

**Consumer Debt**—A debt arising from a personal activity of the debtor. See Section 4030.

**Consumer reporting agency**—A type of credit bureau, which has the same definition as set forth in 31 U.S.C. § 3701(a)(3).

**Credit reporting agency or credit bureau**—Any consumer or commercial credit reporting agency that has a signed agreement with a federal agency to receive and integrate credit information from voluntary subscribers, like other federal agencies and private sector entities, into their respective databases. In general, federal agencies should use nationwide credit reporting agencies.

**e-OSCAR®**—A web-based, Metro 2® compliant, automated system that enables data furnishers (including federal agencies) and credit reporting agencies to create and respond to consumer credit reporting disputes.

The above terms are defined for the purposes of this chapter. For additional terms related to this chapter, please see the [TFM Glossary](#).

#### **Section 4025—Background**

Reporting current commercial and delinquent consumer and commercial debts to credit reporting agencies is not only required by law, but also promotes effective federal financial management. Reporting debts can help other agencies have a more complete picture of a person's creditworthiness. In addition,

reporting current debt information helps persons who timely pay their bills to the United States reap the benefits of their positive credit history.

With some exceptions, federal agencies must refrain from granting loans, or providing loan insurance or loan guarantees, to any debtors owing delinquent debts to the United States, regardless of whether the unresolved obligation is a consumer or commercial debt. See 31 U.S.C. § 3720B; 31 CFR § 285.13. Reporting delinquent debts assists other agencies with complying with this bar on providing federal financial assistance to delinquent debtors.

## **Section 4030—Generally**

### **4030.10— Consumer vs. Commercial Debts and Individuals vs. Entities**

There are certain distinctions regarding the reporting of debts depending on the nature of the debt (consumer vs. commercial) and the nature of the entity (individual vs. entity).

The distinction between consumer debt and commercial debt refers to the type of debt, not to the type of debtor. Individuals (sometimes referred to as "consumers") can owe either consumer or commercial debts; any debt (i.e., consumer or commercial) can inform an individual's creditworthiness. It is the purpose of the activity--not the type of entity involved--that determines whether an agency should classify a debt as consumer or commercial. The term "commercial debt" signifies a debt that arose from a business activity, while the term "consumer debt" signifies a debt that arose from a personal activity.

Relevant law requires reporting of debts owed by individuals--regardless of whether consumer or commercial--to consumer reporting agencies (see 31 U.S.C. 3711(e)). Relevant law also requires the reporting of commercial debts to credit bureaus (see OMB Circular A-129). For consumer debts owed by individuals, agencies should comply with Section 4035. For commercial debts owed by non-individuals, agencies should comply with Section 4040. For commercial debts owed by individuals, agencies should comply with both Sections 4035 and 4040. If the agency believes it may be owed consumer debts by non-individuals, it should consult its counsel regarding its reporting requirements.

### **4030.20—Written Agreement**

Agencies should sign written agreements with credit reporting agencies before reporting any current or delinquent debt information to such credit reporting agencies.

### **4030.30—Dollar Threshold for Debt Reporting**

There is no minimum dollar threshold on the amount of a debt subject to reporting.

### **4030.40—Credit Bureau Reporting by Multiple Agencies for the Same Debt**

Federal agencies generally must transfer debts that are more than 180 days delinquent to Treasury or a Treasury-designated debt collection center for collection (see 31 U.S.C. § 3711(g)). When a debt is or has been serviced by more than one agency, the agencies must take steps to ensure that they do not cause inappropriate, duplicative reports to credit bureaus for the same debt.

## **Section 4035—Reporting Consumer and Commercial Debts Owed by Individuals to Consumer Reporting Agencies**

### **4035.10—Reporting Current Debts**

Pursuant to OMB A-129, federal agencies generally may report current consumer debts to credit bureaus and are encouraged to do so.

### **4035.20—Reporting Delinquent Debts**

Pursuant to 31 U.S.C. § 3711(e), federal agencies must report information on all delinquent debts owed by individuals to a consumer reporting agency. Before reporting a delinquent debt to a consumer reporting agency, the federal agency must:

- Ensure that information to be reported is contained in system of records notice that permits disclosure to a consumer reporting entity in accordance with the Privacy Act. See 31 U.S.C. § 3711(e)(1)(A).
- Review the debt to be reported and decide that the debt is valid and overdue. See 31 U.S.C. § 3711(e)(1)(B).
- Notify the debtor in writing: (1) that the debt is overdue, (2) that, not less than 60 days after sending the notice, the agency will disclose the debt to a credit reporting agency, (3) of the specific information it will be disclosing to the credit bureau, and (4) of the debtor's rights to a complete explanation of the debt, to dispute information in the records about the debt, and to an administrative appeal or review of the debt. See 31 U.S.C. § 3711(e)(1)(C). This due process notice should also outline the actions that the debtor can take to prevent the agency from reporting the debt as delinquent to a credit bureau (e.g., by making payment in full or entering into a compromise agreement prior to the expiration of the 60-day due process period).
- Determine that the debtor has not (1) entered an unbreached written repayment plan with the entity, or (2) filed for review or reconsideration of the debt. See 31 U.S.C. § 3711(e)(1)(D).
- Establish procedures to: (1) disclose promptly to consumer reporting agencies substantial changes in the condition or amount of a debt, (2) verify or correct promptly information about a debt upon the request of a consumer reporting agency for verification (see subsection 4035.50 below), and (3) obtain satisfactory assurances from each consumer reporting agency with which the federal agency has a written agreement that it is complying with all federal laws related to providing consumer credit information. See 31 U.S.C. § 3711(e)(1)(E).
- Provide the debtor with review of the debt upon request, including an opportunity for reconsideration of the initial decision. See 31 U.S.C. § 3711(e)(2).

- Take reasonable action to locate the debtor if the agency does not have a current address. See 31 U.S.C. § 3711(e)(3), and
- Comply with the requirements of any other contract, law, or regulation applicable to a particular debt.

#### **4035.30—Frequency of Debt Reporting and Updates**

Agencies should report debts to consumer reporting agency monthly. Agencies may update debt information more frequently to maintain the integrity and accuracy of the information reported. If an agency makes an update, it should ensure its internal records are also updated to avoid the re-reporting of incorrect information.

#### **4035.40—Method and Format for Reporting Debts to Consumer Reporting Agencies**

Agencies should report debtor's account information to credit bureaus on a non-exclusive basis.

Agencies should report debt information to credit bureaus electronically using the Metro 2® Format through e-OSCAR® or another mutually agreed-upon method. The credit reporting industry uses the Metro 2® Format for reporting all consumer debt information. Electronic copies of the Metro 2® Format are available from Consumer Data Industry Association (CDIA). Because the Metro 2® Format is subject to periodic update, agencies should ensure that they have appropriate procedures for obtaining updates to the reporting standards, as well as procedures for incorporating those updates into their process for credit bureau reporting.

To maintain the accuracy of federal debtor data, agencies should develop and follow procedures when reporting information in the Metro 2® Format. Such procedures should be consistent with the following guidance:

- Agencies should report each debt separately and not group together debts owed by a single debtor, regardless of the amount of activity with that debtor borrower.
- For the account number field, agencies should report the unique alphanumeric or numeric code that identifies each individual loan, loan guarantee, or debt. Account numbers generally should not be based on taxpayer identification numbers (TIN); however, if any agency uses a TIN in its account number, the TIN may only be used if the agency can distinguish between different debts or other types of credit that may have been extended to a debtor or borrower. For example, an agency may add an additional character to the code to make such distinctions.
- To avoid reporting issues, agencies should not re-use or re-issue account numbers after a consumer debt has been closed or paid in full.
- While 31 U.S.C. § 7701(c) requires an agency to obtain the social security number of any person with whom it does business, delinquent debts should be reported even if the agency is unable to provide a social security number (as long as the credit bureau agrees to accept the account without it). If a social security number is not available, agency should put a zero into this field of the reporting format when

submitting the debt to a credit bureau.

- Agencies should report capitalized interest or other capitalized expenses as part of the debt giving rise to the interest or expense. For example, if \$1,000 in interest is capitalized on a \$50,000 debt, the entity should report \$51,000 as a single account.

#### **4035.50—Handling Disputes**

Before disclosing information to a credit bureau, agencies must provide the debtor with an opportunity for review of the agency's initial decision on the claim. In some circumstances, agencies may also be required to provide the debtor with post-reporting opportunities to review the agency's initial decision.

Under 31 U.S.C. § 3711(e), debtors may dispute inaccurate information in their consumer credit reports and have a right to review records pertaining to their debts. Although 31 U.S.C. § 3711(e) does not require that federal agencies process a dispute within a specific timeframe, it does require that federal agencies promptly verify or correct information about a debt upon the request of a consumer reporting agency for verification.

Credit reporting agencies also have obligations to investigate disputes under FCRA that arise independently of 31 U.S.C. § 3711(e); credit reporting agencies may delete information if their investigation is not complete within 30 days from the date the credit reporting agency receives a dispute from an individual (or debtor) in writing.

Agencies should seek to perform their investigations in a manner that will allow them to verify or correct the disputed information within 30 days to prevent credit bureaus from deleting the disputed information. Typically, credit reporting agencies provide notice of the dispute to the agency within five days by uploading the dispute information into e-OSCAR® for the federal agency's review or will notify the entity of the dispute through other mutually agreed-upon methods.

#### **4035.60—Procedures for Changing Debts from "Current" to "Delinquent"**

This subsection describes the procedures for agencies to use when the status of a debt changes from "current" to "delinquent."

- If an agency has been reporting a debt as "current/not delinquent," and the debt becomes delinquent, the agency should discontinue reporting information about that debt for a minimum of 60 days while it satisfies its due process requirements, as described in subsection 4035.20.
- If the debtor asks for a review of the files or disputes the debt, the agency should refrain from reporting information about the debt until the entity completes any reviews or appeals.
- If the debtor pays the debt in full or enters into a repayment agreement within the 60-day due process period, the agency should report the account status update.

After the 60-day due process period (or after all agency reviews or appeals are complete), if the account remains delinquent, the agency should report the delinquent account to the credit reporting agencies. Presumably, this would be the third month of delinquency. When doing so, the agency may change the debt's payment history profile to show the initial two delinquent months as 30 and 60 days delinquent. Alternatively, the agency could leave the first two months blank (i.e., unreported) and update the account status to 90 days delinquent on the date of the first report.

During subsequent reporting periods, the agency should update the debtor's account status, as applicable.

#### **4035.70—Termination of Collection Action; Limitations Period**

Once an agency terminates collection action regarding a debt, it should update all relevant credit bureaus on the change in the debt's status.

Even if an agency has not terminated collection action on a delinquent debt, an agency should consider whether it should discontinue future reports if more than seven years has elapsed from the date of first delinquency.

### **Section 4040—Reporting Commercial Debts Owed by Individuals or Agencies**

#### **4040.10—Requirements for Reporting Current and Delinquent Commercial Debts**

Agencies must report account information on all current and delinquent commercial debts to credit bureaus. See 31 CFR § 901.4; OMB Circular No. A-129. If an agency is reporting information on a delinquent debt, it must first comply with the prerequisites set forth in 4035.20.

#### **4040.20—Frequency of Commercial Debt Reporting and Updates**

Agencies should report commercial account information on a quarterly basis. Agencies may update debt information more frequently to maintain the integrity and accuracy of the information reported. If an agency makes an update, it should ensure its internal records are also updated to avoid the re-reporting of incorrect information.

#### **4040.30—Method and Format for Reporting Commercial Debts**

Agencies should report commercial debt information to credit bureaus on a non-exclusive basis.

The CDIA developed the Metro 2® Format described in subsection 4035.40 only for reporting consumer debt information to credit bureaus. Although agencies may use, or attempt to use, the Metro 2® Format to report commercial debts, credit reporting agencies may require the use of another format. For example, Fiscal Service reports commercial debt information to credit bureaus using the Commercial Small Business Financial Exchange format. An agency should furnish

the account information electronically, through eOSCAR® or another mutually agreed-upon method.

In addition, agencies should develop and follow procedures regarding the reporting of debt information to commercial credit bureaus. Such procedures should be consistent with the following guidance:

- Agencies should report each debt separately and not group together debts owed by a single debtor or borrower, regardless of the amount of activity with that debtor/borrower.
- For the account number field, agencies should report the unique alphanumeric or numeric code that identifies each individual loan, loan guarantee, or debt. Account numbers generally should not be based on TINs; however, if any agency uses a TIN in its account number, the TIN may only be used if the agency can distinguish between different debts or other types of credit that may have been extended to a debtor or borrower. For example, an agency may add an additional character to the code to make such distinctions.
- To avoid reporting issues, entities should not re-use or re-issue account numbers after a commercial debt has been closed or paid in full.
- Even though 31 U.S.C. § 7701(c) requires an agency to obtain the TIN of any person with whom it does business, delinquent debts should be reported even if the agency is unable to provide a TIN (as long as the credit bureau agrees to accept the account without it).
- Agencies should report capitalized interest or other capitalized expenses as part of the debt giving rise to the interest or expense. For example, if \$1,000 in interest is capitalized on a \$50,000 debt, the entity should report \$51,000 as a single account.

#### **4040.40—Handling Disputed Information in Commercial Debtor Files**

Federal agencies should have procedures to address disputed information. Agencies should investigate and resolve disputes regarding the accuracy of information in credit reports in a timely manner.

#### **4040.50—Termination of Collection Action**

Once an agency terminates collection action with regard to a debt, it should update all relevant credit bureaus on the change in the debt's status.

#### **Section 4045—Obtaining Credit Reports**

OMB Circular No. A-129 requires that agencies purchase credit reports when screening loan applicants. Where appropriate, federal agencies should obtain credit reports on loan applicants from both commercial and consumer credit reporting agencies before extending credit or granting other forms of federal financial assistance.

In addition, 31 U.S.C. § 3711(h) expressly authorizes federal agencies to obtain



credit reports or comparable credit information to collect, compromise or terminate collection action on any debt owed to the United States. Therefore, agencies should also purchase credit reports to do the following:

- Verify a debtor's claim of financial inability to pay a debt in a lump sum prior to entering into an installment agreement.
- Assess a debtor's financial position when considering whether to compromise a debt.
- Evaluate potential suspension or termination of debt collection activities.
- Comply with the requirement in the Department of Justice's Claims Collection Litigation Report (CCLR) that an agency provide a debtor's credit report when referring a debt for enforcement through litigation.

A credit bureau may also request that the agency sign a written agreement to obtain a credit report. Such an agreement may require the agency to certify that it has a permissible purpose under FCRA for seeking the report. Absent another permissible purpose, federal agencies owed a debt can generally rely on 31 U.S.C. § 3711(h), which allows agencies to obtain credit reports or comparable information to collect, compromise, or terminate collection action on any debt owed to the United States.

The cost of purchasing a credit report should generally be considered an administrative cost under 31 U.S.C. § 3717(e)(1) when the agency uses the report for collection activities after the debt becomes delinquent.

#### **Contacts**

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