AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

SUBCHAPTER F—THE FAIR CREDIT REPORTING ACT

PART 600—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS

Sec.
600.1 Authority and purpose.
600.2 Legal effect.
APPENDIX TO PART 600—COMMENTARY ON THE FAIR CREDIT REPORTING ACT

AUTHORITY: 15 U.S.C. 1681s and 16 CFR 1.73.

SOURCE: 55 FR 18808, May 4, 1990, unless otherwise noted.

§ 600.1 Authority and purpose.

(a) *Authority*. This part is issued by the Commission pursuant to the provisions of the Fair Credit Reporting Act. Pub. L. 91–508, approved October 26, 1970. 84 Stat. 1127–36 (15 U.S.C. 1681 *et seq*).

(b) *Purpose*. The purpose of this part is to clarify and consolidate statements of general policy or interpretations in a commentary in the appendix to this part. The Commentary will serve as guidance to consumer reporting agencies, their customers, and consumer representatives. The Fair Credit Reporting Act requires that the manner in which consumer reporting agencies provide information be fair and equitable to the consumer with regard to the confidentiality, accuracy, and proper use of such information. The Commentary will enable interested parties to resolve their questions more easily, present a more comprehensive treatment of interpretations and facilitate compliance with the Fair Credit Reporting Act in accordance with Congressional intent.

§ 600.2 Legal effect.

(a) The interpretations in the Commentary are not trade regulation rules or regulations, and, as provided in § 1.73 of the Commission's rules, they do not have the force or effect of statutory provisions.

(b) The regulations of the Commission relating to the administration of the Fair Credit Reporting Act are found in subpart H of 16 CFR part 1 (§§ 1.71–1.73).

APPENDIX TO PART 600—COMMENTARY ON THE FAIR CREDIT REPORTING ACT

INTRODUCTION

1. *Official status*. This Commentary contains interpretations of the Federal Trade Commission (Commission) of the Fair Credit Reporting Act (FCRA). It is a guideline intended to clarify how the Commission will construe the FCRA in light of Congressional intent as reflected in the statute and its legislative history. The Commentary does not have the force or effect of regulations or statutory provisions, and its contents may be revised and updated as the Commission considers necessary or appropriate.

2. *Status of previous interpretations*. The Commentary primarily addresses issues discussed in the Commission's earlier formal interpretations of the FCRA (16 CFR 600.1–600.8), which are hereby superseded, in the staff's manual entitled ''Compliance With the Fair Credit Reporting Act'' (the current edition of which was published in May 1973, and revised in January 1977 and March 1979), and in informal staff opinion letters responding to public requests for interpretations, and it also reflects the results of the Commission's FCRA enforcement program. It is intended to synthesize the Commission's views and give clear advice on important issues. The Commentary sets forth some interpretations that differ from those previously expressed by the Commission or its staff, and is intended to supersede all prior formal Commission interpretations, informal staff opinion letters, and the staff manual cited above.

3. *Statutory references*. Reference to several different provisions of the FCRA is frequently required in order to make a complete analysis of an issue. For various sections and subsections of the FCRA, the Commentary discusses the most important and common overlapping references under the heading ''Relation to other (sub)sections.''

4. *Issuance of staff interpretations*. The Commission will revise and update the Commentary as it deems necessary, based on the staff's experience in responding to public inquiries about, and enforcing, the FCRA. The Commission welcomes input from interested industry and consumer groups and other public parties on the Commentary and on issues discussed in it. Staff will continue to respond to requests for informal staff interpretations. In proposing revisions of the Commentary, staff will consider and, where appropriate, recommend that the Commentary incorporate issues raised in correspondence and other public contacts, as well as in connection with the Commission's enforcement

efforts. Therefore, a party may raise an issue for inclusion in future editions of the Commentary without making any formal submission or request to that effect. However, requests for formal Commission interpretations of the FCRA may also still be made pursuant to the procedures set forth in the Commission's Rules (16 CFR 1.73).

5. *Commentary citations to FCRA*. The Commentary should be used in conjunction with the text of the statute. In some cases, the Commentary includes an abbreviated description of the statute, rather than the full text, as a preamble to discussion of issues pertaining to various sections and subsections. These summary statements of the law should not be used as a substitute for the statutory text.

Section 601—Short Title

''This title may be cited as the Fair Credit Reporting Act.''

The Fair Credit Reporting Act (FCRA) is title VI of the Consumer Credit Protection Act, which also includes other Federal statutes relating to consumer credit, such as the Truth in Lending Act (title I), the Equal Credit Opportunity Act (Title VII), and the Fair Debt Collection Practices Act (title VIII).

Section 602—Findings and Purpose

Section 602 recites the Congressional findings regarding the significant role of consumer reporting agencies in the nation's financial system, and states that the basic purpose of the FCRA is to require consumer reporting agencies to adopt reasonable procedures for providing information to credit grantors, insurers, employers and others in a manner that is fair and equitable to the consumer with regard to confidentiality, accuracy, and the proper use of such information.

Section 603—Definitions and Rules of Construction

Section 603(a) states that ''definitions and rules of construction set forth in this section are applicable for the purposes of this title.''

Section 603(b) defines *person* to mean ''any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency or other entity.''

1. Relation to Other Sections

Certain ''persons'' must comply with the Act. The term *consumer reporting agency* is defined in section 603(f) to include certain ''persons.'' Section 619 subjects any ''person'' who knowingly and willfully obtains information from a consumer reporting agency on a consumer under false pretenses to criminal sanctions. Requirements relating to report users apply to ''persons.'' Section 606 imposes disclosure obligations on ''persons'' who obtain investigative reports or cause them to be prepared. Section 615(c) uses the term *person* to denote those subject to disclosure obligations under sections 615(a) and 615(b).

2. Examples

The term ''person'' includes universities, creditors, collection agencies, insurance companies, private investigators, and employers.

Section 603(c) defines the term *consumer* to mean ''an individual.''

1. Relation to Other Sections

The term ''consumer'' denotes an individual entitled to the Act's protections. Consumer reports, as defined in section 603(d), are reports about consumers. A ''consumer'' is entitled to obtain disclosures under section 609 from consumer reporting agencies and to take certain steps that require such agencies to follow procedures in section 611, concerning disputes about the completeness or accuracy of items of information in the consumer's file. Disclosures required under section 606 by one procuring an investigative report must be made to the ''consumer'' on whom the report is sought. Notifications required by section 615 must be provided to ''consumers.'' A ''consumer'' is the party entitled to sue for willful noncompliance (section 616) or negligent noncompliance (section 617) with the Act's requirements.

2. General

The definition includes only a natural person. It does not include artificial entities (e.g., partnerships, corporations, trusts, estates, cooperatives, associations) or entities created by statute (e.g., governments, governmental subdivisions or agencies).

Section 603(d) defines *consumer report* to mean ''any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under Section 604'' (with three specific exclusions).

1. Relation to ''Consumer Reporting Agency''

To be a ''consumer report,'' the information must be furnished by a ''consumer reporting agency'' as that term is defined in section 603(f). Conversely, the term ''consumer reporting agency'' is restricted to persons that regularly engage in assembling or evaluating consumer credit information or

other information on consumers for the purpose of furnishing ''consumer reports'' to third parties. In other words, the terms ''consumer reporting agency'' in section 603(f) and ''consumer report'' in section 603 (d)) are mutually dependent and must therefore be construed together. For example, information is not a ''consumer report'' if the person furnishing the information is clearly not a ''consumer reporting agency'' (e.g., if the person furnishing the information does not regularly furnish such information for monetary fees or on a cooperative nonprofit basis).

2. Relation to the Applicability of the Act

If a report is not a ''consumer report,'' then the Act does not usually apply to it.[1] For example, because a commercial credit report is not a report on a consumer, it is not a ''consumer report''. Therefore, the user need not notify the subject of the name and address of the credit bureau when taking adverse action, and the provider need not omit ''obsolete'' information, as would be required if the FCRA applied.

3. Report Concerning a ''Consumer's'' Attributes and History

A. *General*. A ''consumer report'' is a report on a ''consumer'' to be used for certain purposes involving that ''consumer.''

B. *Artificial entities*. Reports about corporations, associations, and other collective entities are not consumer reports, and the Act does not apply to them.

C. *Reports on businesses for business purposes*. Reports used to determine the eligibility of a business, rather than a consumer, for certain purposes, are not consumer reports and the FCRA does not apply to them, even if they contain information on individuals, because Congress did not intend for the FCRA to apply to reports used for commercial purposes (see 116 Cong. Rec. 36572 (1970) (Conf. Report on H.R. 15073)).

4. ''(C)redit Worthiness, Credit Standing, Credit Capacity, Character, General Reputation, Personal Characteristics, or Mode of Living * * *''

A. *General*. To be a ''consumer report,'' the information must bear on at least one of the seven characteristics listed in this definition.

B. *Credit guides*. Credit guides are listings, furnished by credit bureaus to credit grantors, that rate how well consumers pay their bills. Such guides are a series of ''consumer reports,'' because they contain information which is used for the purpose of serving as a factor in establishing the consumers' eligibility for credit. However, if they are coded (by identification such as social security number, driver's license number, or bank account number) so that the consumer's identity is not disclosed, they are not ''consumer reports'' until decoded. (See discussion of uncoded credit guides under section 604(3)(A), item 8 *infra*.)

C. *Motor vehicle reports*. Motor vehicle reports are distributed by state motor vehicle departments, generally to insurance companies upon request, and usually reveal a consumer's entire driving record, including arrests for driving offenses. Such reports are consumer reports when they are sold by a Department of Motor Vehicles for insurance underwriting purposes and contain information bearing on the consumer's ''personal characteristics,'' such as arrest information. The Act's legislative history indicates Congress intended the Act to cover mutually beneficial exchanges of information between commercial enterprises rather than between governmental entities. Accordingly, these reports are not consumer reports when provided to other governmental authorities involved in licensing or law enforcement activities. (See discussion titled ''State Departments of Motor Vehicles,'' under section 603(f), item 10 *infra*.)

D. *Consumer lists*. A list of the names of creditworthy individuals, or of individuals on whom credit bureaus have derogatory information, is a series of ''consumer reports'' because the information bears on credit worthiness.

E. *Public record information*. A report solely of public record information is not a ''consumer report'' unless that information is provided by a consumer reporting agency, is collected or used for the purposes identified in section 603(d), and bears on at least one of the seven characteristics listed in the definition. Public record information relating to records of arrest, or the institution or disposition of civil or criminal proceedings, bears on one or more of these characteristics.

F. *Name and address*. A report limited solely to the consumer's name and address alone, with no connotations as to credit worthiness or other characteristics, does not constitute a ''consumer report,'' if it does not bear on any of the seven factors.

G. *Rental characteristics*. Reports about rental characteristics (e.g., consumers' evictions, rental payment histories, treatment of premises) are consumer reports, because they relate to character, general reputation, personal characteristics, or mode of living.

[1] However, a creditor denying a consumer's application based on a report from a ''third party'' must give the disclosure required by section 615(b).

5. ''(U)sed or Expected To Be Used or Collected in Whole or in Part for the Purpose of Serving as a Factor in Establishing the Consumer's Eligibility * * *''

A. *Law enforcement bulletins.* Bulletins that are limited to a series of descriptions, sometimes accompanied by photographs, of individuals who are being sought by law enforcement authorities for alleged crimes are not a series of ''consumer reports'' because they have not been collected for use in evaluating consumers for credit, insurance, employment or other consumer purposes, and it cannot reasonably be anticipated they will be used for such purposes.

B. *Directories.* Telephone directories and city directories, to the extent they only provide information regarding name, address and phone number, marital status, home ownership, and number of children, are not ''consumer reports,'' because the information is not used or expected to be used in evaluating consumers for credit, insurance, employment or other purposes and does not reflect on credit standing, credit worthiness, or any of the other factors. A list of names of individuals with checking accounts is not a series of consumer reports because the information does not bear on credit worthiness or any of the other factors. A trade directory, such as a list of all insurance agents licensed to do business in a state, is not a series of consumer reports because it is commercial information that would be used for commercial purposes.

C. *Use of prior consumer report in preparation.* A report that would not otherwise be a consumer report may be a consumer report, notwithstanding the purpose for which it is furnished, if it includes a prior consumer report or information from consumer report files, because it would contain some information ''collected in whole or in part'' for consumer reporting purposes. For example, an insurance claims report would be a consumer report if a consumer report (or information from a consumer report) were used to prepare it. (See discussion, *infra,* in item 6–C under this subsection.)

D. *Use of reports for purposes not anticipated by the reporting party.* The question arises whether a report that is not otherwise a consumer report is subject to the FCRA because the recipient subsequently uses the report for a permissible purpose. If the reporting party's procedures are such that it neither knows of nor should reasonably anticipate such use, the report is not a consumer report. If a reporting party has taken reasonable steps to insure that the report is not used for such a purpose, and if it neither knows of, nor can reasonably anticipate such use, the report should not be deemed a consumer report by virtue of uses beyond the reporting party's control. A reporting party might establish that it does not reasonably anticipate such use of the report by requiring the recipient to certify that the report will not be used for one of the purposes listed in section 604. (Such procedure may be compared to the requirement in section 607(a), discussed *infra,* that consumer reporting agencies furnishing consumer reports require that prospective users certify the purposes for which the information is sought and certify that the information will be used for no other purpose.) For example, a claims reporting service could use such a certification to avoid having its insurance claims reports deemed ''consumer reports'' if the report recipient/insurer were to use the report later for ''underwriting purposes'' under section 604(3)(C), such as terminating insurance coverage or raising the premium.

6. ''(E)stablishing the Consumer's Eligibility for (1) Credit or Insurance To Be Used Primarily for Personal, Family or Household Purposes, or (2) Employment Purposes, or (3) Other Purposes Authorized Under Section 604''

A. *Relation to section 604.* Because section 603(d)(3) refers to ''purposes authorized under section 604'' (often described as ''permissible purposes'' of consumer reports), some of which overlap purposes enumerated in section 603 (e.g., 603(d)(1) and 603(d)(2)), sections 603 and 604 must be construed together, to determine what are ''consumer reports'' and ''permissible purposes'' under the two sections. See discussion *infra,* under section 604.

B. *Commercial credit or insurance.* A report on a consumer for credit or insurance in connection with a business operated by the consumer is not a ''consumer report,'' and the Act does not apply to it.

C. *Insurance claims reports.* (It is assumed that information in prior consumer reports is not used in claims reports. See discussion, *supra,* in item 5–C under this subsection.) Reports provided to insurers by claims investigation services solely to determine the validity of insurance claims are not consumer reports, because section 604(3)(C) specifically sets forth only underwriting (not claims) as an insurance-related purpose, and section 603(d)(1) deals specifically with eligibility for insurance and no other insurance-related purposes. To construe section 604(3)(E) as including reports furnished in connection with insurance claims would be to disregard the specific language of sections 604(3)(C) and 603(d)(1).

D. *Scope of employment purpose.* A report that is used or is expected to be used or collected in whole or in part in connection with establishing an employee's eligibility for ''promotion, reassignment or retention,'' as well as to evaluate a job applicant, is a consumer report because sections 603(d)(2) and 604(3)(B) use the term ''employment purposes,'' which section 603(h) defines to include these situations.

E. *Bad check lists.* A report indicating that an individual has issued bad checks, provided by printed list or otherwise, to a business for use in determining whether to accept consumers' checks tendered in transactions primarily for personal, family or household purposes, is a consumer report. The information furnished bears on consumers' character, general reputation and personal characteristics, and it is used or expected to be used in connection with business transactions involving consumers.

F. *Tenant screening reports.* A report used to determine whether to rent a residence to a consumer is a consumer report, because it is used for a business transaction that the consumer wishes to enter into for personal, family or household purposes.

7. Exclusions From the Definition of ''Consumer Report''

A. *''(Any) reports containing information solely as to transactions or experiences between the consumer and the person making the report;''*—(1) *Examples of Sources.* The exemption applies to reports limited to transactions or experiences between the consumer and the entity making the report (e.g., retail stores, hospitals, present or former employers, banks, mortgage servicing companies, credit unions, or universities).

(2) *Information beyond the reporting entity's own transactions or experiences with the consumer.* The exemption does not apply to reports by these entities of information beyond their own transactions or experiences with the consumer. An example is a creditor's or an insurance company's report of the reasons it cancelled credit or insurance, based on information from an outside source.

(3) Opinions Concerning Transactions or Experiences

The exemption applies to reports that are not limited to the facts, but also include opinions (e.g., use of the term ''slow pay'' to describe a consumer's transactions with a creditor), as long as the facts underlying the opinions involve only transactions or experiences between the consumer and the reporting entity.

B. *''(A)ny authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;''*—(1) *General.* The exemption applies to a credit or debit card issuer's written, oral, or electronic communication of its decision whether or not to authorize a charge, in response to a request from a merchant or other party that the consumer has asked to honor the card.

C. *''(A)ny report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to the consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 615.''*—(1) *General.* The exemption covers retailers' attempts to obtain credit for their individual customers from an outside source (such as a bank or a finance company). The communication by the financial institution of its decision whether to extend credit is not a ''consumer report'' *if* the retailer informs the customer of the name and address of the financial institution to which the application or contract is offered *and* the financial institution makes the disclosures required by section 615 of the Act. Such disclosures must be made only when there is a denial of, or increase in the charge for, credit or insurance. (See discussion of section 615, item 10, *infra.*)

(2) *Information included in the exemption.* The exemption is not limited to a simple ''yes'' or ''no'' response, but includes the information constituting the basis for the credit denial, because it applies to ''any report.''

(3) *How third party creditors can insure that the exemption applies.* Creditors, who are requested by dealers or merchants to make such specific extensions of credit, can assure that communication of their decision to the dealer or merchant will be exempt under this section from the term ''consumer report,'' by having written agreements that require such parties to inform the consumer of the creditor's name and address and by complying with any applicable provisions of section 615.

Section 603(e) defines ''investigative consumer report'' as ''a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.''

1. Relation to Other Sections

The term *investigative consumer report* denotes a subset of ''consumer report'' for which the Act imposes additional requirements on recipients and consumer reporting agencies. Persons procuring ''investigative consumer reports'' must make certain disclosures to the consumers who are the subjects of the reports, as required by section 606. Consumer reporting agencies must comply with section 614, when furnishing ''investigative consumer reports'' containing adverse information that is not a matter of

public record. Consumer reporting agencies making disclosure to consumers pursuant to section 609 are not required to disclose ''sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose.''

2. General

An ''investigative consumer report'' is a type of ''consumer report'' that contains information that is both related to a consumer's character, general reputation, personal characteristics or mode of living and obtained by personal interviews with the consumer's neighbors, friends, associates or others.

3. Types of Sources Interviewed

A report consisting of information from any third party concerning the subject's character (reputation, etc.) may be an investigative consumer report because the phrase ''obtained through personal interviews * * * with others'' includes any source that is a third party interviewee. A report containing interview information obtained solely from the subject is not an ''investigative consumer report.''

4. Telephone Interviews

A consumer report that contains information on a consumer's ''character, general reputation, personal characteristics or mode of living'' obtained through telephone interviews with third parties is an ''investigative consumer report,'' because ''personal interviews'' includes interviews conducted by telephone as well as in person.

5. Identity of Interviewer

A consumer report is an ''investigative consumer report'' if personal interviews are used to obtain information reported on a consumer's ''character, general reputation, personal characteristics or mode of living,'' regardless of who conducted the interview.

6. Noninvestigative Information in ''Investigative Consumer Reports''

An ''investigative consumer report'' may also contain noninvestigative information, because the definition includes reports, a ''portion'' of which are investigative reports.

7. Exclusions From ''Investigative Consumer Reports''

A report that consists solely of information gathered from observation by one who drives by the consumer's residence is not an ''investigative consumer report,'' because it contains no information from ''personal interviews.''

Section 603(f) defines ''consumer reporting agency'' as ''any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.''

1. Relation to Other Sections

A. *Duties imposed on ''consumer reporting agencies.''* The Act imposes a number of duties on ''consumer reporting agencies.'' They must have permissible purposes to furnish consumer reports (section 604), avoid furnishing obsolete adverse information in certain consumer reports (sections 605, 607(a)), adopt reasonable procedures to assure privacy (section 604, 607(a)), and accuracy (section 607(b)) of consumer reports, provide only limited disclosures to governmental agencies (section 608), provide consumers certain disclosures upon request (sections 609 and 610) at no cost or for a reasonable charge (section 612), follow certain procedures if a consumer disputes the completeness or accuracy of any item of information contained in his file (section 611), and follow certain procedures in reporting public record information for employment purposes or when reporting adverse information other than public record information in investigative consumer reports (sections 613, 614).

B. *Relation to ''consumer reports.''* The term *consumer reporting agency,* as defined in section 603(f), includes certain persons who assemble or evaluate information on individuals for the purpose of furnishing ''consumer reports'' to third parties. Conversely, section 603(d) defines the term *consumer report* to mean the communication of certain information by a ''consumer reporting agency.'' In other words, the terms ''consumer report'' in section 603(d) and ''consumer reporting agency'' as defined in section 603(f) are defined in a mutually dependent manner and must therefore be construed together. For example, a party is not a ''consumer reporting agency'' if it provides only information that is excepted from the definition of ''consumer report'' under section 603(d), such as reports limited to the party's own transactions or experiences with a consumer, or credit information on organizations.

2. Isolated Reports

Parties that do not ''regularly'' engage in assembling or evaluating information for the purpose of furnishing consumer reports to third parties are not consumer reporting agencies. For example, a creditor that furnished information on a consumer to a governmental entity in connection with one of its investigations, would not ''regularly'' be

making such disclosure for a fee or on a cooperative nonprofit basis, and therefore would not become a consumer reporting agency, even if the information exceeded the creditor's transactions or experiences with the consumer.

3. Provision of Credit Report to Report Subject

A consumer report user does not become a consumer reporting agency by regularly giving a copy of the report, or otherwise disclosing it, to the consumer who is the subject of the report, because it is not disclosing the information to a ''third party.''

4. Employment Agency

An employment agency that routinely obtains information on job applicants from their former employers and furnishes the information to prospective employers is a consumer reporting agency.

5. Information Compiled for Insurance Underwriting

A business that compiles claim payment histories on individuals from insurers and furnishes them to insurance companies for use in underwriting decisions concerning those individuals is a consumer reporting agency.

6. Private Investigators and Detective Agencies

Private investigators and detective agencies that regularly obtain consumer reports and furnish them to clients may thereby become consumer reporting agencies.

7. Collection Agencies and Creditors

Collection agencies and creditors become consumer reporting agencies if they regularly furnish information beyond their transactions or experiences with consumers to third parties for use in connection with consumers' transactions.

8. Joint Users of Consumer Reports

Entities that share consumer reports with others that are jointly involved in decisions for which there are permissible purposes to obtain the reports may be ''joint users'' rather than consumer reporting agencies. For example, if a lender forwards consumer reports to governmental agencies administering loan guarantee programs (or to other prospective loan insurers or guarantors), or to other parties whose approval is needed before it grants credit, or to another creditor for use in considering a consumer's loan application at the consumer's request, the lender does not become a consumer reporting agency by virtue of such action. An agent or employee that obtains consumer reports does not become a consumer reporting agency by sharing such reports with its principal or employer in connection with the purposes for which the reports were initially obtained.

9. Loan Exchanges

Loan exchanges, which are generally owned and operated on a cooperative basis by consumer finance companies, constitute a mechanism whereby each member furnishes the exchange information concerning the full identity and loan amount of each of its borrowers, and receives information from the exchange concerning the number and types of outstanding loans for each of its applicants. A loan exchange or any other exchange that regularly collects information bearing on decisions to grant consumers credit or insurance for personal, family or household purposes, or employment, is a ''consumer reporting agency.''

10. State Departments of Motor Vehicles

State motor vehicle departments are ''consumer reporting agencies'' if they regularly furnish motor vehicle reports containing information bearing on the consumer's ''personal characteristics,'' such as arrest information, to insurance companies for insurance underwriting purposes. (See discussion of motor vehicle reports under section 603(d), item 4c *supra*.)

11. Federal Agencies

The Office of Personnel Management collects and files data concerning current and potential employees of the Federal Government and transmits that information to other government agencies for employment purposes. Because Congress did not intend that the FCRA apply to the Office of Personnel Management and similar federal agencies (see 116 Cong. Rec. 36576 (1970) (remarks of Rep. Brown)), no such agency is a ''consumer reporting agency.''

12. Credit Application Information

A creditor that provides information from a consumer's application to a credit bureau, for verification as part of the creditor's evaluation process that includes obtaining a report on the consumer from that credit bureau, does not thereby become a ''consumer reporting agency,'' because the creditor does not provide the information for ''fees, dues, or on a cooperative nonprofit basis,'' but rather pays the bureau to verify the information when it provides a consumer report on the applicant.

Section 603(g) defines *file*, when used in connection with information on any consumer, to mean ''all of the information on that consumer recorded and retained by a consumer reporting agency regardless of how the information is stored.''

1. Relation to Other Sections

Consumer reporting agencies are required to make disclosures of all information in their ''files'' to consumers upon request (section 609) and to follow reinvestigation procedures if the consumer disputes the completeness or accuracy of any item of information contained in his ''file'' (section 611).

2. General

The term *file* denotes all information on the consumer that is recorded and retained by a consumer reporting agency that might be furnished, or has been furnished, in a consumer report on that consumer.

3. Audit Trail

The term ''file'' does not include an ''audit trail'' (a list of changes made by a consumer reporting agency to a consumer's credit history record, maintained to detect fraudulent changes to that record), because such information is not furnished in consumer reports or used as a basis for preparing them.

4. Other Information

The term ''file'' does not include information in billing records or in the consumer relations folder that a consumer reporting agency opens on a consumer who obtains disclosures or files a dispute, if the information has not been used in a consumer report and would not be used in preparing one.

Section 603(h) defines *employment purposes* to mean ''a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee.''

1. Relation to Other Sections

The term *employment purposes* is used as part of the definition of ''consumer reports'' (section 603(d)(2)) and as a permissible purpose for the furnishing of consumer reports (section 604(3)(B)). Where an investigative consumer report is to be used for ''employment purposes'' for which a consumer has not specifically applied, section 606(a)(2) provides that the notice otherwise required by section 606(a)(1) need not be sent. When a consumer reporting agency furnishes public record information in reports ''for employment purposes,'' it must follow the procedure set out in section 613.

2. Security Clearances

A report in connection with security clearances of a government contractor's employees would be for ''employment purposes'' under this section.

Section 603(i) defines *medical information* to mean ''information or records obtained, with the consent of the individual to whom it relates, from licensed physicians or medical practitioners, hospitals, clinics, or other medical or medically related facilities.''

1. Relation to Other Sections

Under section 609(a)(1), a consumer reporting agency must, upon the consumer's request and proper identification, disclose the nature and substance of all information in its files on the consumer, except ''medical information.''

2. Information From Non-medical Sources

Information from non-medical sources such as employers, is not ''medical information.''

Section 604—Permissible Purposes of Reports

''*A consumer reporting agency may furnish a consumer report under the following circumstances and no other:* * * *''

1. Relation to Section 603

Sections 603(d)(3) and 604 must be construed together to determine what are ''permissible purposes,'' because section 603(d)(3) refers to ''purposes authorized under section 604'' (often described as ''permissible purposes'' of consumer reports), and some purposes are enumerated in section 603 (e.g., sections 603(d)(1) and 603(d)(2)). Subsections of sections 603 and 604 that specifically set forth ''permissible purposes'' relating to credit, insurance and employment, are the only subsections that cover ''permissible purposes'' relating to those three areas. Section 604(3)(E), a general subsection, is limited to purposes not otherwise addressed in section 604(3) (A)–(D).

A. *Credit.* Sections 603(d)(1)—which defines ''consumer report'' to include certain reports for the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance primarily for personal, family, or household purposes—and 604(3)(A) must be read together as fully describing permissible purposes involving credit for obtaining consumer reports. Accordingly, section 604(3)(A) permits the furnishing of a consumer report for use in connection with a credit transaction involving the consumer, primarily for personal, family or household purposes, and involving the extension of credit to, or review or collection of an account of, the consumer.

B. *Insurance.* Sections 603(d)(1) and 604(3)(C) must be read together as describing the only permissible insurance purposes for obtaining consumer reports. Accordingly, section 604(3)(C) permits the furnishing of a consumer report, provided it is for use in connection with the underwriting of insurance involving the consumer, primarily for personal, family, or household purposes.

C. *Employment.* Employment is covered exclusively by sections 603(d)(2) and 604(3)(B),

and by section 603(h) (which defines ''employment purposes''). Therefore, ''permissible purposes'' relating to employment include reports used for evaluating a consumer ''for employment, promotion, reassignment or retention as an employee.''

D. *Other purposes.* ''Other purposes'' are referred to in section 603(d)(3) and covered by section 604(3)(E), as well as sections 604(1), 604(2) and 604(3)(D) (which contain specific purposes not involving credit, insurance, employment). Permissible purposes relating to section 604(3)(E) are limited to transactions that consumers enter into primarily for personal, family or household purposes (excluding credit, insurance or employment, which are specifically covered by other subsections discussed above). The FCRA does not cover reports furnished for transactions that consumers enter into primarily in connection with businesses they operate (e.g., a consumer's rental of equipment for use in his retail store).

2. Relation to Other Sections

A. *Section 607(a).* Section 607(a) requires consumer reporting agencies to keep information confidential by furnishing consumer reports only for purposes listed under section 604, and to follow specified, reasonable procedures to achieve this end. Section 619 provides criminal sanctions against any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses.

B. *Section 608.* Section 608 allows ''consumer reporting agencies'' to furnish governmental agencies specified identifying information concerning consumers, notwithstanding the limitations of section 604.

Section 604(1)—A consumer reporting agency may furnish a consumer report ''in response to the order of a court having jurisdiction to issue such an order.''

1. Subpoena

A subpoena, including a grand jury subpoena, is not an ''order of a court'' unless signed by a judge.

2. Internal Revenue Service Summons

An I.R.S. summons is an exception to the requirement that an order be signed by a judge before it constitutes an ''order of a court'' under this section, because a 1976 revision to Federal statutes (26 U.S.C. 7609) specifically requires a consumer reporting agency to furnish a consumer report in response to an I.R.S. summons upon receipt of the designated I.R.S. certificate that the consumer has not filed a timely motion to quash the summons.

Section 604(2)—A consumer reporting agency may furnish a consumer report ''in accordance with the written instructions of the consumer to whom it relates.''

1. No Other Permissible Purpose Needed

If the report subject furnishes written authorization for a report, that creates a permissible purpose for furnishing the report.

2. Refusal to Furnish Report

The consumer reporting agency may refuse to furnish the report because the statute is permissive, not mandatory. (Requirements that consumer reporting agencies make disclosure to consumers (as contrasted with furnishing reports to users) are discussed under sections 609 and 610, *infra.*)

Section 604(3)(A)—A consumer reporting agency may issue a consumer report to ''a person which it has reason to believe * * * intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;''

1. Reports Sought in Connection with the ''Review or Collection of an Account''

A. *Reports for collection.* A collection agency has a permissible purpose under this section to receive a consumer report on a consumer for use in attempting to collect that consumer's debt, regardless of whether that debt is assigned or referred for collection. Similarly, a detective agency or private investigator, attempting to collect a debt owed by a consumer, would have a permissible purpose to obtain a consumer report on that individual for use in collecting that debt. An attorney may obtain a consumer report under this section on a consumer for use in connection with a decision whether to sue that individual to collect a credit account.

B. *Unsolicited reports.* A consumer reporting agency may not send an unsolicited consumer report to the recipient of a previous report on the same consumer, because the recipient will not necessarily have a permissible purpose to receive the unsolicited report.[2] For example, the recipient may have rejected the consumer's application or ceased to do business with the consumer. (See also discussion in section 607, item 2G, *infra.*)

2. Judgment Creditors

A judgment creditor has a permissible purpose to receive a consumer report on the judgment debtor for use in connection with collection of the judgment debt, because it is

[2] Of course a consumer reporting agency must furnish notifications required by section 611(d), upon the consumer's requests, to prior recipients of reports containing disputed information that is deleted or that is the subject of a dispute statement under section 611(b).

in the same position as any creditor attempting to collect a debt from a consumer who is the subject of a consumer report.

3. Child Support Debts

A district attorney's office or other child support agency may obtain a consumer report in connection with enforcement of the report subject's child support obligation, established by court (or quasi-judicial administrative) orders, since the agency is acting as or on behalf of the judgment creditor, and is, in effect, collecting a debt. However, a consumer reporting agency may not furnish consumer reports to child support agencies seeking to *establish* paternity or the duty to pay child support.

4. Tax Obligations

A tax collection agency has no general permissible purpose to obtain a consumer report to collect delinquent tax accounts, because this subsection applies only to collection of ''credit'' accounts. However, if a tax collection agency acquired a tax lien having the same effect as a judgment or obtained a judgment, it would be a judgment creditor and would have a permissible purpose for obtaining a consumer report on the consumer who owed the tax. Similarly, if a consumer taxpayer entered an agreement with a tax collection agency to pay taxes according to some timetable, that agreement would create a debtor-creditor relationship, thereby giving the agency a permissible purpose to obtain a consumer report on that consumer.

5. Information on an Applicant's Spouse

A. *Permissible purpose*. A creditor may request any information concerning an applicant's spouse if that spouse will be permitted to use the account or will be contractually liable upon the account, or the applicant is relying on the spouse's income as a basis for repayment of the credit requested. A creditor may request any information concerning an applicant's spouse if (1) the state law doctrine of necessaries applies to the transaction, or (2) the applicant resides in a community property state, or (3) the property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a state, or (4) the applicant is acting as the agent of the nonapplicant spouse.

B. *Lack of permissible purpose*. If the creditor receives information clearly indicating that the applicant is not acting as the agent of the nonapplicant spouse, and that the applicant is relying only on separate property to repay the credit extended, and that the state law doctrine of necessaries does not apply to the transaction and that the applicant does not reside in a community property state, the creditor does not have a permissible purpose for obtaining a report on a nonapplicant spouse. A permissible purpose for making a consumer report on a nonapplicant spouse can never exist under the FCRA, where Regulation B, issued under the Equal Credit Opportunity Act (12 CFR 202), prohibits the creditor from requesting information on such spouse. There is no permissible purpose to obtain a consumer report on a nonapplicant former spouse or on a nonapplicant spouse who has legally separated or otherwise indicated an intent to legally disassociate with the marriage. (This does not preclude reporting a prior joint credit account of former spouses for which the spouse that is the subject of the report is still contractually liable. See discussion in section 607, item 3–D *infra*.)

6. Prescreening

Prescreening means the process whereby a consumer reporting agency compiles or edits a list of consumers who meet specific criteria and provides this list to the client or a third party (such as a mailing service) on behalf of the client for use in soliciting these consumers for the client's products or services. The process may also include demographic or other analysis of the consumers on the list (e.g., use of census tract data reflecting real estate values) by the consumer reporting agency or by a third party employed for that purpose (by either the agency or its client) before the list is provided to the consumer reporting agency's client. In such situations, the client's creditworthiness criteria may be provided only to the consumer reporting agency and not to the third party performing the demographic analysis. The consumer reporting agency that performs a ''prescreening'' service may furnish a client with several different lists of consumers who meet different sets of creditworthiness criteria supplied by the client, who intends to make different credit offers (e.g., various credit limits) to consumers who meet the different criteria.

A prescreened list constitutes a series of consumer reports, because the list conveys the information that each consumer named meets certain criteria for creditworthiness. Prescreening is permissible under the FCRA if the client agrees in advance that each consumer whose name is on the list after prescreening will receive an offer of credit. In these circumstances, a permissible purpose for the prescreening service exists under this section, because of the client's present intent to grant credit to all consumers on the final list, with the result that the information is used ''in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to * * * the consumer.''

7. Seller of Property Extending Credit

A seller of property has a permissible purpose under this subsection to obtain a consumer report on a prospective purchaser to whom he is planning to extend credit.

8. Uncoded Credit Guides

A consumer reporting agency may not furnish an uncoded credit guide, because the recipient does not have a permissible purpose to obtain a consumer report on each consumer listed. (As discussed under section 603(d), item 4 *supra,* credit guides are listings that credit bureaus furnish to credit grantors, rating how consumers pay their bills. Such guides are a series of ''consumer reports'' on the ''consumers'' listed therein, unless coded so that the consumer's identity is not disclosed.)

9. Liability for Bad Checks

A party attempting to recover the amount due on a bad check is attempting to collect a debt and, therefore, has a permissible purpose to obtain a consumer report on the consumer who wrote it, and on any other consumer who is liable for the amount of that check under applicable state law.

Section 604(3)(B)—A consumer reporting agency may issue a consumer report to ''a person which it has reason to believe * * * intends to use the information for employment purposes;''

1. Current Employees

An employer may obtain a consumer report on a current employee in connection with an investigation of the disappearance of money from employment premises, because ''retention as an employee'' is included in the definition of ''employment purposes'' (section 603(h)).

2. Consumer Reports on Applicants and Nonapplicants

An employer may obtain a consumer report for use in evaluating the subject's application for employment but may not obtain a consumer report to evaluate the application of a consumer who is not the subject of the report.

3. Grand Jurors

The fact that grand jurors are usually paid a stipend for their service does not provide a district attorney's office a permissible purpose for obtaining consumer reports on them, because such service is a duty, not ''employment.''

Section 604(3)(C)—A consumer reporting agency may issue a consumer report to ''a person which it has reason to believe * * * intends to use the information in connection with the underwriting of insurance involving the consumer;''

1. Underwriting

An insurer may obtain a consumer report to decide whether or not to issue a policy to the consumer, the amount and terms of coverage, the duration of the policy, the rates or fees charged, or whether or not to renew or cancel a policy, because these are all ''underwriting'' decisions.

2. Claims

An insurer may not obtain a consumer report for the purpose of evaluating a claim (to ascertain its validity or otherwise determine what action should be taken), because permissible purposes relating to insurance are limited by this section to ''underwriting'' purposes.

Section 604(3)(D)—A consumer reporting agency may issue a consumer report to ''a person which it has reason to believe * * * intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status * * *''

1. Appropriate recipient

Any party charged by law (including a rule or regulation having the force of law) with responsibility for assessing the consumer's eligibility for the benefit (not only the agency directly responsible for administering the benefit) has a permissible purpose to receive a consumer report. For example, a district attorney's office or social services bureau, required by law to consider a consumer's financial status in determining whether that consumer qualifies for welfare benefits, has a permissible purpose to obtain a report on the consumer for that purpose. Similarly, consumer reporting agencies may furnish consumer reports to townships on consumers whose financial status the townships are required by law to consider in determining the consumers' eligibility for assistance, or to professional boards (e.g., bar examiners) required by law to consider such information on applicants for admission to practice.

2. Inappropriate Recipient

Parties not charged with the responsibility of determining a consumer's eligibility for a license or other benefit, for example, a party competing for an FCC radio station construction permit, would not have a permissible purpose to obtain a consumer report on that consumer.

3. Initial or Continuing Benefit

The permissible purpose includes the determination of a consumer's continuing eligibility for a benefit, as well as the evaluation of a consumer's initial application for a benefit. If the governmental body has reason

to believe a particular consumer's eligibility is in doubt, or wishes to conduct random checks to confirm eligibility, it has a permissible purpose to receive a consumer report.

Section 604(3)(E)—A consumer reporting agency may issue a consumer report to ''a person which it has reason to believe * * * otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.''

1. Relation to Other Subsections of Section 604(3)

The issue of whether credit, employment, or insurance provides a permissible purpose is determined exclusively by reference to subsection (A), (B), or (C), respectively.

2. Commercial Transactions

The term *business transaction* in this section means a business transaction with a consumer primarily for personal, family, or household purposes. Business transactions that involve purely commercial purposes are not covered by the FCRA.

3. ''Legitimate Business Need''

Under this subsection, a party has a permissible purpose to obtain a consumer report on a consumer for use in connection with some action the consumer takes from which he or she might expect to receive a benefit that is not more specifically covered by subsections (A), (B), or (C). For example, a consumer report may be obtained on a consumer who applies to rent an apartment, offers to pay for goods with a check, applies for a checking account or similar service, seeks to be included in a computer dating service, or who has sought and received over-payments of government benefits that he has refused to return.

4. Litigation

The possibility that a party may be involved in litigation involving a consumer does not provide a permissible purpose for that party to receive a consumer report on such consumer under this subsection, because litigation is not a ''business transaction'' involving the consumer. Therefore, potential plaintiffs may not always obtain reports on potential defendants to determine whether they are worth suing. The transaction that gives rise to the litigation may or may not provide a permissible purpose. A party seeking to sue on a *credit* account would have a permissible purpose under section 604(3)(A). (That section also permits judgment creditors and lien creditors to obtain consumer reports on judgment debtors or individuals whose property is subject to the lien creditor's lien.) If that transaction is a business transaction involving the consumer, there is a permissible purpose. If the litigation arises from a tort, there is no permissible purpose. Similarly, a consumer report may not be obtained solely for use in discrediting a witness at trial or for locating a witness. This section does not permit consumer reporting agencies to furnish consumer reports for the purpose of locating a person suspected of committing a crime. (As stated in the discussion of section 608 *infra* (item 2), section 608 permits the furnishing of specified, limited identifying information to governmental agencies, notwithstanding the provisions of section 604.)

5. Impermissible Purposes

A consumer reporting agency may not furnish a consumer report to satisfy a requester's curiosity, or for use by a news reporter in preparing a newspaper or magazine article.

6. Agents

A. *General*. An agent[3] of a party with a ''permissible purpose'' may obtain a consumer report on behalf of his principal, where he is involved in the decision that gives rise to the permissible purpose. Such involvement may include the agent's making a decision (or taking action) for the principal, or assisting the principal in making the decision (e.g., by evaluating information). In these circumstances, the agent is acting on behalf of the principal. In some cases, the agent and principal are referred to as ''joint users.'' See discussion in section 603(f), *supra* (item 8).

B. *Real estate agent*. A real estate agent may obtain a consumer report on behalf of a seller, to evaluate the eligibility as a prospective purchaser of a subject who has expressed an interest in purchasing property from the seller.

C. *Private detective agency*. A private detective agency may obtain a consumer report as agent for its client while investigating a report subject that is a client's prospective employee, or in connection with advising a client concerning a business transaction with the report subject or in attempting to collect a debt owed its client by the subject of the report. In these circumstances, the detective agency is acting on behalf of its client.

D. *Rental clearance agency*. A rental clearance agency that obtains consumer reports to assist owners of residential properties in screening consumers as tenants, has a permissible purpose to obtain the reports, if it uses them in applying the landlord's criteria to approve or disapprove the subjects as tenant applicants. Similarly, an apartment

[3] Of course agents and principals *are* bound by the Act.

manager investigating applicants for apartment rentals by a landlord may obtain consumer reports on these applicants.

E. *Attorney*. An attorney collecting a debt for a creditor client, including a party suing on a debt or collecting on behalf of a judgment creditor or lien creditor, has a permissible purpose to obtain a consumer report on the debtor to the same extent as the client.

Section 604—General

1. Furnishing of Consumer Reports to Other Consumer Reporting Agencies

A consumer reporting agency may furnish a consumer report to another consumer reporting agency for it to furnish pursuant to a subscriber's request. In these circumstances, one consumer reporting agency is acting on behalf of another.

2. Consumer's Permission not Needed

When permissible purposes exist, parties may obtain, and consumer reporting agencies may furnish, consumer reports without the consumers' permission or over their objection. Similarly, parties may furnish information concerning their transactions with consumers to consumer reporting agencies and others, and consumer reporting agencies may gather information, without consumers' permission.

3. User's Disclosure of Report to Subject Consumer

The FCRA does not prohibit a consumer report user from giving a copy of the report, or otherwise disclosing it, to the consumer who is the subject of the report.

Section 605—Obsolete Information

''(a) *Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information * * *:*

(b) *The provisions of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with—*

(1) *a credit transaction involving, or which may reasonably be expected to involve, a principal amount of $50,000 or more;*

(2) *the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of $50,000 or more; or*

(3) *the employment of any individual at an annual salary which equals, or which may reasonably be expected to egual $20,000, or more.*''

1. General

Section 605(a) provides that most adverse information more than seven years old may not be reported, except in certain circumstances set out in section 605(b). With respect to delinquent accounts, accounts placed for collection, and accounts charged to profit and loss, there are many dates that could be deemed to commence seven year reporting periods. The discussion in subsections (a)(2), (a)(4), and (a)(6) is intended to set forth a clear, workable rule that effectuates Congressional intent.

2. Favorable Information

The Act imposes no time restriction on reporting of information that is not adverse.

3. Retention of Information in Files

Consumer reporting agencies may retain obsolete adverse information and furnish it in reports for purposes that are exempt under subsection (b) (e.g., credit for a principal amount of $50,000 or more).

4. Use of Shorter Periods

The section does not require consumer reporting agencies to report adverse information for the time periods set forth, but only prohibits them from reporting adverse items beyond those time periods.

5. Inapplicability to Users

The section does not limit creditors or others from using adverse information that would be ''obsolete'' under its terms, because it applies only to reporting by consumer reporting agencies. Similarly, this section does not bar a creditor's reporting such adverse obsolete information concerning its transactions or experiences with a consumer, because the report would not constitute a consumer report.

6. Indicating the Existence of Nonspecified, Obsolete Information

A consumer reporting agency may not furnish a consumer report indicating the existence of obsolete adverse information, even if no specific item is reported. For example, a consumer reporting agency may not communicate the existence of a debt older than seven years by reporting that a credit grantor cannot locate a debtor whose debt was charged off ten years ago.

7. Operative Dates

The times or dates set forth in this section, which relate to the occurrence of events involving adverse information, determine whether the item is obsolete. The date that the consumer reporting agency acquired the adverse information is irrelevant to how long that information may be reported.

Section 605(a)(1)—''Cases under title 11 of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the case may be, antedate the report by more than 10 years.''

1. Relation to Other Subsections

The reporting of suits and judgments is governed by subsection (a)(2), the reporting of accounts placed for collection or charged to profit and loss is governed by subsection (a)(4), and the reporting of other delinquent accounts is governed by subsection (a)(6). Any such item, even if discharged in bankruptcy, may be reported separately for the applicable seven year period, while the existence of the bankruptcy filing may be reported for ten years.

2. Wage Earner Plans

Wage earner plans may be reported for ten years, because they are covered by Title 11 of the United States Code.

3. Date for Filing

A voluntary bankruptcy petition may be reported for ten years from the date that it is filed, because the filing of the petition constitutes the entry of an ''order for relief'' under this subsection, just like a filing under the Bankruptcy Act (11 U.S.C. 301).

Section 605(a)(2)—''Suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.''

1. Operative Date

For a suit, the term *date of entry* means the date the suit was initiated. A protracted suit may be reported for more than seven years from the date it was entered, if the governing statute of limitations has not expired. For a judgment, the term ''date of entry'' means the date the judgment was rendered.

2. Paid Judgments

Paid judgments cannot be reported for more than seven years after the judgment was entered, because payment of the judgment eliminates any ''governing statute of limitations'' under this subsection that might otherwise lengthen the period.

Section 605(a)(3)—''Paid tax liens which, from date of payment, antedate the report by more than seven years.''

1. Unpaid Liens

If a tax lien (or other lien) remains unsatisfied, it may be reported as long as it remains filed against the consumer, without limitation, because this subsection addresses only paid tax liens.

Section 605(a)(4)—''Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.''

1. Placement for Collection

The term *placed for collection* means internal collection activity by the creditor, as well as placement with an outside collector, whichever occurs first. Sending of the initial past due notices does not constitute placement for collection. Placement for collection occurs when dunning notices or other collection efforts are initiated. The reporting period is not extended by assignment to another entity for further collection, or by a partial or full payment of the account. However, where a borrower brings his delinquent account to date and returns to his regular payment schedule, and later defaults again, a consumer reporting agency may disregard any collection activity with respect to the first delinquency and measure the reporting period from the date the account was placed for collection as a result of the borrower's ultimate default. A consumer's repayment agreement with a collection agency can be treated as a new account that has its own seven year period.

2. Charge to Profit and Loss

The term *charged to profit and loss* means action taken by the creditor to write off the account, and the applicable time period is measured from that event. If an account that was charged off is later paid in part or paid in full by the consumer, the reporting period of seven years from the charge-off is not extended by this subsequent payment.

3. Reporting of a Delinquent Account That is Later Placed for Collection or Charged to Profit and Loss

The fact that an account has been placed for collection or charged to profit and loss may be reported for seven years from the date that either of those events occurs, regardless of the date the account became delinquent. The fact of delinquency may also be reported for seven years from the date the account became delinquent.

Section 605(a)(5)—''Records of arrest, indictment, or conviction of crime which, from date of disposition, release, or parole, antedate the report by more than seven years.''

1. Records

The term *records* means any information a consumer reporting agency has in its files relating to arrest, indictment or conviction of a crime.

2. Computation of Time Period

The seven year reporting period runs from the date of disposition, release or parole, as applicable. For example, if charges are dismissed at or before trial, or the consumer is acquitted, the date of such dismissal or acquittal is the date of disposition. If the consumer is convicted of a crime and sentenced to confinement, the date of release or placement on parole controls. (Confinement, whether continuing or resulting from revocation of parole, may be reported until seven

years after the confinement is terminated.) The sentencing date controls for a convicted consumer whose sentence does not include confinement. The fact that information concerning the arrest, indictment, or conviction of crime is obtained by the reporting agency at a later date from a more recent source (such as a newspaper or interview) does not serve to extend this reporting period.

Section 605(a)(6)—''Any other adverse item of information which antedates the report by more than seven years.''

1. Relation to Other Subsections

This section applies to all adverse information that is not covered by section 605(a) (1)–(5). For example, a delinquent account that has neither been placed for collection, nor charged to profit and loss, may be reported for seven years from the date of the last regularly scheduled payment. (Accounts placed for collection or charged to profit and loss may be reported for the time periods stated in section 605(a)(4).)

2. Non Tax Liens

Liens (other than paid tax liens) may be reported as long as they remain filed against the consumer or the consumer's property, and remain effective (under any applicable statute of limitations). (See discussion under section 605(a)(3), *supra*.)

Section 606—Disclosure of Investigative Consumer Reports

''(a) *A person may not procure or cause to be prepared an investigative consumer report on any consumer unless—*

(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure (A) is made in a writing mailed, or otherwise delivered, to the consumer, not later than three days after the date on which the report was first requested, and (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section; or

(2) the report is to be used for employment purposes for which the consumer has not specifically applied.

(b) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after receipt by him of the disclosure required by subsection (a)(1), make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever is the later.

(c) No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b).''

1. Relation to Other Sections

The term *investigative consumer report* is defined at section 603(e) to mean a consumer report, all or a portion of which contains information obtained through personal interviews (in person or by telephone) with persons other than the subject, which information relates to the subject's character, general reputation, personal characteristics or mode of living.

2. Inapplicability to Consumer Reporting Agencies

The section applies only to report users, not consumer reporting agencies. The FCRA does not require consumer reporting agencies to inform consumers that information will be gathered or that reports will be furnished concerning them.

3. Inapplicability to Noninvestigative Consumer Reports

The section does not apply to noninvestigative reports.

4. Exemptions

An employer who orders investigative consumer reports on a current employee who has not applied for a job change need not notify the employee, because the term ''employment purposes'' is defined to include ''promotion, reassignment or retention'' and subsection (b) provides that the disclosure requirements do not apply to ''employment purposes for which the consumer has not specifically applied.''

5. Form and Delivery of Notice

The notice must be in writing and delivered to the consumer. The user may include the disclosure in an application for employment, insurance, or credit, if it is clear and conspicuous and not obscured by other language. A user may send the required notice via first class mail. The notice must be mailed or otherwise delivered to the consumer not later than three days after the report was first requested.

6. Content of Notice of Right to Disclosure

The notice must clearly and accurately disclose that an ''investigative consumer report'' including information as to the consumer's character, general reputation, personal characteristics and mode of living (whichever are applicable), may be made. The disclosure must also state that an investigative consumer report involves personal interviews with sources such as neighbors, friends, or associates. The notice may include any additional, accurate information about the report, such as the types of interviews that will be conducted. The notice must include a statement informing the consumer of the right to request complete and accurate disclosure of the nature and scope of the investigation.

7. Content of Disclosure of Report

When the consumer requests disclosure of the ''nature and scope'' of the investigation, such disclosure must include a complete and accurate description of the types of questions asked, the number and types of persons interviewed, and the name and address of the investigating agency. The user need not disclose the names of sources of information, nor must it provide the consumer with a copy of the report. A report user that provides the consumer with a blank copy of the standardized form used to transmit the report from the agency to the user complies with the requirement that it disclose the ''nature'' of the investigation.

Section 607—Compliance Procedures

''(a) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 605 and to limit the furnishing of consumer reports to the purposes listed under section 604. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in Section 604.

(b) Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.''

1. Procedures To Avoid Reporting Obsolete Information

A. *General*. A consumer reporting agency should establish procedures with its sources of adverse information that will avoid the risk of reporting obsolete information. For example, the agency should either require a creditor to supply the date an account was placed for collection or charged off, or the agency should use a conservative date for such placement or charge off (such as the date of the last regularly scheduled payment), to be sure of complying with the statute.

B. *Retention of obsolete information for reporting in excepted circumstances*. If a consumer reporting agency retains adverse information in its files that is ''obsolete'' under section 605(a) (e.g., information about a satisfied judgment that is more than seven years old), so that it may be reported for use in transactions described by section 605(b) (*i.e.*, applications for credit or life insurance for $50,000 or more, or employment at an annual salary of $20,000 or more), it must have procedural safeguards to avoid reporting the information except in those situations. The procedure should require that such obsolete information be released only after an internal decision that its release will not violate section 605.

2. Procedures To Avoid Reporting for Impermissible Purposes

A. *Verification*. A consumer reporting agency should have a system to verify that it is dealing with a legitimate business having a ''permissible purpose'' for the information reported. What constitutes adequate verification will vary with the circumstances. If the consumer reporting agency is not familiar with the user, appropriate procedures might require an on-site visit to the user's place of business, or a check of the user's references.

B. *Required certification by user*. A consumer reporting agency should adopt procedures that require prospective report users to identify themselves, certify the purpose for which the information is sought, and certify that the information will be used for no other purpose. A consumer reporting agency should determine initially that users have permissible purposes and ascertain what those purposes are. It should obtain a specific, written certification that the recipient will obtain reports for those purposes and no others. The user's certification that the report will be used for no other purposes should expressly prohibit the user from sharing the report or providing it to anyone else, other than the subject of the report or to a joint user having the same purpose. A consumer reporting agency should refuse to provide reports to those refusing to provide such certification.

C. *Blanket or individual certification.* Once the consumer reporting agency obtains a certification from a user (e.g., a creditor) that typically has a permissible purpose for receiving a consumer report, stating that it will use those reports only for specified permissible purposes (e.g., for credit or employment purposes), a certification of purpose need not be furnished for each individual report obtained, provided there is no reason to believe the user may be violating its certification. However, in furnishing reports to users that typically could have both permissible and impermissible purposes for ordering consumer reports (e.g., attorneys and detective agencies), the consumer reporting agency must require the user to provide a separate certification each time it requests a consumer report.

D. *Procedures to avoid recipients' abuse of certification.* When doubt arises concerning any user's compliance with its contractual certification, a consumer reporting agency must take steps to insure compliance, such as requiring a separate, advance certification for each report it furnishes that user, or auditing that user to verify that it is obtaining reports only for permissible purposes. A consumer reporting agency must cease furnishing consumer reports to users who repeatedly request consumer reports for impermissible purposes.

E. *Unauthorized access.* A consumer reporting agency should take several other steps when doubt arises concerning whether a user is obtaining reports for a permissible purpose from a computerized system. If it appears that a third party, not a subscriber, has obtained unauthorized access to the system, the consumer reporting agency should take appropriate steps such as altering authorized users' means of access, such as codes and passwords, and making random checks to ensure that future reports are obtained only for permissible purposes. If a subscriber has inadvertently sought reports for impermissible purposes or its employee has obtained reports without a permissible purpose, it would be appropriate for the consumer reporting agency to alter the subscriber's means of access, and require an individual written certification of the permissible purpose for each report requested or randomly verify such purposes. A consumer reporting agency should refuse to furnish any further reports to a user that repeatedly violates certifications.

F. *Use of computerized systems.* A consumer reporting agency may furnish consumer reports to users via terminals, provided the consumer reporting agency has taken the necessary steps to ensure that the users have a permissible purpose to receive the reports. (The agency would have to record the identity of consumer report recipients for each consumer, to be able to make any disclosures required under section 609(a)(3) or section 611(d)).

G. *Activity reports.* If a consumer reporting agency provides ''activity reports'' on all customers who have open-end accounts with a credit grantor, it must make certain that the credit grantor always notifies the agency when accounts are closed and paid in full, to avoid furnishing reports on former customers or other customers for whom the credit grantor lacks a permissible purpose. (See also discussion in section 604(3)(A), item 1, *supra.*)

3. Reasonable Procedures To Assure Maximum Possible Accuracy

A. *General.* The section does not require error free consumer reports. If a consumer reporting agency accurately transcribes, stores and communicates consumer information received from a source that it reasonably believes to be reputable, and which is credible on its face, the agency does not violate this section simply by reporting an item of information that turns out to be inaccurate. However, when a consumer reporting agency learns or should reasonably be aware of errors in its reports that may indicate systematic problems (by virtue of information from consumers, report users, from periodic review of its reporting system, or otherwise) it must review its procedures for assuring accuracy. Examples of errors that would require such review are the issuance of a consumer report pertaining entirely to a consumer other than the one on whom a report was requested, and the issuance of a consumer report containing information on two or more consumers (e.g., information that was mixed in the file) in response to a request for a report on only one of those consumers.

B. *Required steps to improve accuracy.* If the agency's review of its procedures reveals, or the agency should reasonably be aware of, steps it can take to improve the accuracy of its reports at a reasonable cost, it must take any such steps. It should correct inaccuracies that come to its attention. A consumer reporting agency must also adopt reasonable procedures to eliminate systematic errors that it knows about, or should reasonably be aware of, resulting from procedures followed by its sources of information. For example, if a particular credit grantor has often furnished a significant amount of erroneous consumer account information, the agency must require the creditor to revise its procedures to correct whatever problems cause the errors or stop reporting information from that creditor.

C. *Use of automatic data processing equipment.* Consumer reporting agencies that use automatic data processing equipment (particularly for long distance transmission of information) should have reasonable procedures to assure that the data is accurately

converted into a machine-readable format and not distorted by machine malfunction or transmission failure. Reasonable security procedures must be adopted to minimize the possibility that computerized consumer information will be stolen or altered by either authorized or unauthorized users of the information system.

D. *Reliability of sources.* Whether a consumer reporting agency may rely on the accuracy of information from a source depends on the circumstances. This section does not hold a consumer reporting agency responsible where an item of information that it receives from a source that it reasonably believes to be reputable appears credible on its face, and is transcribed, stored and communicated as provided by that source. Requirements are more stringent where the information furnished appears implausible or inconsistent, or where procedures for furnishing it seem likely to result in inaccuracies, or where the consumer reporting agency has had numerous problems regarding information from a particular source.

E. *Undesignated information in credit transactions. Undesignated information* means all credit history information in a married (or formerly married) consumer's file, which was not reported to the consumer reporting agency with a designation indicating that the information relates to either the consumer's joint or individual credit experience. The question arises what is meant by reasonable procedures under this section for treatment of credit history in the file of only one (present or former) spouse (usually the husband) that has not been designated by the procedure in Regulation B, 12 CFR 202.10, which implements the Equal Credit Opportunity Act. (This situation exists only for certain credit history file information compiled before June 1, 1977, and certain accounts opened before that date.) A consumer reporting agency may report information solely in the file of spouse A, when spouse B applies for a separate extension of credit, only if such information relates to accounts for which spouse B was either a user or was contractually liable, or the report recipient has a permissible purpose for a report on spouse A. A consumer reporting agency may not supply all undesignated information from the file of a consumer's spouse in response to a request for a report on the consumer, because some or all of that information may not relate to both spouses. Consumer reporting agencies must honor without charge the request of a married or formerly married individual that undesignated information (that appears only in the files of the individual's present or former spouse) be segregated—*i.e.*, placed in a separate file that is accessible under that individual's name. This procedure insures greater accuracy and protection of the privacy of spouses than does the automatic reporting of undesignated information.

F. *Reporting of credit obligation*—(1) *Past due accounts.* A consumer reporting agency must employ reasonable procedures to keep its file current on past due accounts (e.g., by requiring its creditors to notify the credit bureau when a previously past due account has been paid or discharged in bankruptcy), but its failure to show such activity in particular instances, despite the maintenance of reasonable procedures to keep files current, does not violate this section. For example, a consumer reporting agency that reports accurately in 1985 that as of 1983 the consumer owed a retail store money, without mentioning that the consumer eventually paid the debt, does not violate this section if it was not informed by the store or the consumer of the later payment.

(2) *Significant, verified information.* A consumer reporting agency must report significant, verified information it possesses about an item. For instance, a consumer reporting agency may continue to report a paid account that was previously delinquent, but should also report that the account has been paid. Similarly, a consumer reporting agency may include delinquencies on debts discharged in bankruptcy in consumer reports, but must accurately note the status of the debt (e.g., discharged, voluntarily repaid). Finally, if a reported bankruptcy has been dismissed, that fact should be reported.

(3) *Guarantor obligations.* Personal guarantees for obligations incurred by others (including a corporation) may be included in a consumer report on the individual who is the guarantor. The report should accurately reflect the individual's involvement (e.g., as guarantor of the corporate debt).

4. Effect of Criminal Sanctions

Notwithstanding the fact that section 619 provides criminal sanctions against persons who knowingly and willfully obtain information on a consumer from a consumer reporting agency under false pretenses, a consumer reporting agency must follow reasonable procedures to limit the furnishing of reports to those with permissible purposes.

5. Disclosure of Credit Denial

When reporting that a consumer was denied a benefit (such as credit), a consumer reporting agency need not report the reasons for the denial.

6. Content of Report

A consumer report need not be tailored to the user's needs. It may contain any information that is complete, accurate, and not obsolete on the consumer who is the subject of the report. A consumer report may include an account that was discharged in bankruptcy (as well as the bankruptcy

itself), as long as it reports a zero balance due to reflect the fact that the consumer is no longer liable for the discharged debt. A consumer report may include a list of recipients of reports on the consumer who is the subject of the report.

7. Completeness of Reports

Consumer reporting agencies are not required to include all existing derogatory or favorable information about a consumer in their reports. (See, however, discussion in section 611, item 14, *infra,* concerning conveying consumer dispute statements.) However, a consumer reporting agency may not mislead its subscribers as to the completeness of its reports by deleting nonderogatory information and not disclosing its policy of making such deletions.

8. User Notice of Adverse Action Based on a Consumer Report

A consumer reporting agency need not require users of its consumer reports to provide any notice to consumers against whom adverse action is taken based on a consumer report. The FCRA imposes such notice requirements directly on users, under the circumstances set out in section 615.

Section 608—Disclosures to Governmental Agencies

''Notwithstanding the provisions of section 604, a consumer reporting agency may furnish identifying information respecting any consumer limited to his name, address, former addresses, places of employment, or former places of employment, to a governmental agency.''

1. Permissible Purpose Necessary for Additional Information

A consumer reporting agency may furnish limited identifying information concerning a consumer to a governmental agency (e.g., an agency seeking a fugitive from justice) even if that agency does not have a ''permissible purpose'' under section 604 to receive a consumer report. However, a governmental agency must have a permissible purpose in order to obtain information beyond what is authorized by this section.

2. Entities Covered by Section

The term *governmental agency* includes federal, state, county and municipal agencies, and grand juries. Only governmental agencies may obtain disclosures of identifying information under this section.

Section 609—Disclosures to Consumers

''(a) Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer:

(1) The nature and substance of all information (except medical information) in its files on the consumer at the time of the request.

(2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: Provided, That in the event an action is brought under this title, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

(3) The recipients of any consumer report on the consumer which it has furnished

(A) for employment purposes within the two-year period preceding the request, and

(B) for any other purpose within the six-month period preceding the request.

(b) The requirements of subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this title except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.''

1. Relation to Other Sections

This section states what consumer reporting agencies must disclose to consumers, upon request and proper identification. Section 610 sets forth the conditions under which those disclosures must be made, and section 612 sets forth the circumstances under which consumer reporting agencies may charge for making such disclosures. The term ''file'' as used in section 609(a)(1) is defined in section 603(g). The term ''investigative consumer report,'' which is used in section 609(a)(2), is defined in section 603(e). The term *medical information,* which is used in section 609(a)(1), is defined in section 603(i).

2. Proper Identification

A consumer reporting agency must take reasonable steps to verify the identity of an individual seeking disclosure under this section.

3. Manner of ''Proper Identification''

If a consumer provides sufficient identifying information, the consumer reporting agency cannot insist that the consumer execute a ''request for interview'' form, or provide the items listed on it, as a prerequisite to disclosure. However, the agency may use a form to identify consumers requesting disclosure if it does not use the form to inhibit disclosure, or to obtain any waiver of the consumers' rights. A consumer reporting agency may provide disclosure by telephone without a written request, if the consumer is

properly identified, but may insist on a written request before providing such disclosure.

4. Power of Attorney

A consumer reporting agency may disclose a consumer's file to a third party authorized by the consumer's written power of attorney to obtain the disclosure, if the third party presents adequate identification and fulfills other applicable conditions of disclosure. However, the agency may also disclose the information directly to the consumer.

5. Nature of Disclosure Required

A consumer reporting agency must disclose the nature and substance of all items in the consumer's file, no matter how or where they are stored (e.g., in other offices of the consumer reporting agency). The consumer reporting agency must have personnel trained to explain to the consumer any information furnished in accordance with the Act. Particularly when the file includes coded information that would be meaningless to the consumer, the agency's personnel must assist the consumer to understand the disclosures. Any summary must not mischaracterize the nature of any item of information in the file. The consumer reporting agency is not required to provide a copy of the file, or any other written disclosure, or to read the file verbatim to the consumer or to permit the consumer to examine any information in its files. A consumer reporting agency may choose to usually comply with the FCRA in writing, by providing a copy of the file to the consumer or otherwise.

6. Medical Information

Medical information includes information obtained with the consumer's consent from physicians and medical facilities, but does not include comments on a consumer's health by non-medical personnel. A consumer reporting agency is not required to disclose medical information in its files to consumers, but may do so. Alternatively, a consumer reporting agency may inform consumers that there is medical information in the files concerning them and supply the name of the doctor or other source of the information. Consumer reporting agencies may also disclose such information to a physician of the consumer's choice, upon the consumer's written instructions pursuant to section 604(2).

7. Ancillary Information.

A consumer reporting agency is not required to disclose information consisting of an audit trail of changes it makes in the consumer's file, billing records, or the contents of a consumer relations folder, if the information is not from consumer reports and will not be used in preparing future consumer reports. Such data is not included in the term ''information in the files'' which must be disclosed to the consumer pursuant to this section. A consumer reporting agency must disclose claims report information only if it has appeared in consumer reports.

8. Information on Other Consumers

The consumer has no right to information in the consumer reporting agency's files on other individuals, because the disclosure must be limited to information ''on the consumer.'' However, all information in the files of the consumer making the request must be disclosed, including information about another individual that relates to the consumer (e.g., concerning that individual's dealings with the subject of the consumer report).

9. Disclosure of Sources of Information

Consumer reporting agencies must disclose the sources of information, except for sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose. When it has used information from another consumer reporting agency, the other agency should be reported as a source.

10. Disclosure of Recipients of Consumer Reports

Consumer reporting agencies must maintain records of recipients of prior consumer reports sufficient to enable them to meet the FCRA's requirements that they disclose the identity of recipients of prior consumer reports. A consumer reporting agency that furnishes a consumer report directly to a report user at the request of another consumer reporting agency must disclose the identity of the user that was the ultimate recipient of the report, not the other agency that acted as an intermediary in procuring the report.

11. Disclosure of Recipients of Prescreened Lists

A consumer reporting agency must furnish to a consumer requesting file disclosure the identity of recipients of any prescreened lists that contained the consumer's name when submitted to creditors (or other users) by the consumer reporting agency.

12. Risk Scores.

A consumer reporting agency is not required to disclose a risk score (or other numerical evaluation, however named) that is provided to the agency's client (based on an analysis of data on the consumer) but not retained by the agency. Such a score is not information ''in (the agency's) files at the time of the request'' by the consumer for file disclosure.

Section 610—Conditions of Disclosure

''(a) A consumer reporting agency shall make the disclosures required under section 609 during normal business hours and on reasonable notice.

(b) The disclosures required under section 609 shall be made to the consumer—

(1) in person if he appears in person and furnishes proper identification; or

(2) by telephone if he has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

(c) Any consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him pursuant to section 609.

(d) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

(e) Except as provided in section 616 and 617, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to section 609, 610, or 615, except as to false information furnished with malice or willful intent to injure such consumers.''

1. Time of Disclosure

A consumer reporting agency must make disclosures during normal business hours, upon reasonable notice. However, the consumer reporting agency may waive reasonable notice, and the consumer may agree to disclosure outside of normal business hours. A consumer reporting agency may make in-person disclosure to consumers who have made appointments ahead of other consumers, because the disclosures are only required to be made ''on reasonable notice.''

2. Extra Conditions Prohibited

A consumer reporting agency may not add conditions not set out in the FCRA as a prerequisite to the required disclosure.

3. Manner of Disclosure

A consumer reporting agency may, with the consumer's actual or implied consent, meet its disclosure obligations by mail, in lieu of the in-person or telephone disclosures specified in the statute.

4. Disclosure in the Presence of Third Parties

When the consumer requests disclosure in a third party's presence, the consumer reporting agency may require that a consumer sign an authorization before such disclosure is made. The consumer may choose the third party to accompany him or her for the disclosure.

5. Expense of Telephone Calls

A consumer reporting agency is not required to pay the telephone charge for a telephone interview with a consumer obtaining disclosure.

6. Qualified Defamation Privilege

The privilege extended by subsection 610(e) does not apply to an action brought by a consumer if the action is based on information not disclosed pursuant to sections 609, 610 or 615. A disclosure to a consumer's representative (e.g., based on the consumer's power of attorney) constitutes ''information disclosed pursuant to section 609'' and is thus covered by this privilege.

Section 611—Procedure in Case of Disputed Accuracy

''(a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(b) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not more than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in any subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumer's statement or a clear and accurate codification or summary thereof.

(d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement, codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the consumer who has within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information. The consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.''

1. Relation to Other Sections

This section sets forth procedures consumer reporting agencies must follow if a consumer conveys a dispute of the completeness or accuracy of any item of information in the consumer's file to the consumer reporting agency. Section 609 provides for disclosures by consumer reporting agencies to consumers, and section 610 sets forth conditions of disclosure. Section 612 permits a consumer reporting agency to impose charges for certain disclosures, including the furnishing of certain information to recipients of prior reports, as provided by section 611(d).

2. Proper Reinvestigation

A consumer reporting agency conducting a reinvestigation must make a good faith effort to determine the accuracy of the disputed item or items. At a minimum, it must check with the original sources or other reliable sources of the disputed information and inform them of the nature of the consumer's dispute. In reinvestigating and attempting to verify a disputed credit transaction, a consumer reporting agency may rely on the accuracy of a creditor's ledger sheets and need not require the creditor to produce documentation such as the actual signed sales slips. Depending on the nature of the dispute, reinvestigation and verification may require more than asking the original source of the disputed information the same question and receiving the same answer. If the original source is contacted for reinvestigation, the consumer reporting agency should at least explain to the source that the original statement has been disputed, state the consumer's position, and then ask whether the source would confirm the information, qualify it, or accept the consumer's explanation.

3. Complaint of Insufficient File, or Lack of File

The FCRA does not require a consumer reporting agency to add new items of information to its file. A consumer reporting agency is not required to create new files on consumers for whom it has no file, nor is it required to add new lines of information about new accounts not reflected in an existing file, because the section permits the consumer to dispute only the completeness or accuracy of particular items of information in the file. If a consumer reporting agency chooses to add lines of information at the consumer's request, it may charge a fee for doing so.

4. Explanation of Extenuating Circumstances

A consumer reporting agency has no duty to reinvestigate, or take any other action under this section, if a consumer merely provides a reason for a failure to pay a debt (e.g., sudden illness or layoff), and does not challenge the accuracy or completeness of the item of information in the file relating to a debt. Most creditors are aware that a variety of circumstances may render consumers unable to repay credit obligations. Although a consumer reporting agency is not required to accept a consumer dispute statement that does not challenge the accuracy or completeness of an item in the consumer's file, it may accept such a statement and may charge a fee for doing so.

5. Reinvestigation of a Debt

A consumer reporting agency must reinvestigate if a consumer conveys to it a dispute concerning the validity or status of a debt, such as whether the debt was owed by the consumer, or whether the debt had subsequently been paid. For example, if a consumer alleges that a judgment reflected in the file as unpaid has been satisfied, or notifies a consumer reporting agency that a past due obligation reflected in the file as unpaid was subsequently paid, the consumer reporting agency must reinvestigate the matter. If a file reflects a debt discharged in bankruptcy without reflecting subsequent reaffirmation and payment of that debt, a consumer may require that the item be reinvestigated.

6. Status of a Debt

The consumer reporting agency must, upon reinvestigation, ''record the current status'' of the disputed item. This requires inclusion of any information relating to a change in status of an ongoing matter (e.g., that a credit account had been closed, that a debt shown as past due had subsequently been paid or discharged in bankruptcy, or that a debt shown as discharged in bankruptcy was later reaffirmed and/or paid).

7. Dispute Conveyed to Party Other Than the Consumer Reporting Agency

A consumer reporting agency is required to take action under this section only if the consumer directly communicates a dispute to it. It is not required to respond to a dispute of information that the consumer merely conveys to others (e.g., to a source of information). (But see, however, discussion in section 607, item 3A, of consumer reporting agencies' duties to correct errors that come to their attention.)

8. Dispute Conveyed to the Consumer Reporting Agency by a Party Other Than the Consumer

A consumer reporting agency need not reinvestigate a dispute about a consumer's file raised by any third party, because the obligation under the section arises only where an ''item of information in his file is disputed by the consumer.''

9. Consumer Disclosures and Adverse Action Not Prerequisites to Reinvestigation Duty

A consumer reporting agency's obligation to reinvestigate disputed items is not contingent upon the consumer's having been denied a benefit or having asserted any rights under the FCRA other than disputing items of information.

10. Reasonable Period of Time

A consumer reporting agency is required to reinvestigate and record the current status of disputed information within a reasonable period of time after the consumer conveys the dispute to it. Although consumer reporting agencies are able to reinvestigate most disputes within 30 days, a ''reasonable time'' for a particular reinvestigation may be shorter or longer depending on the circumstances of the dispute. For example, where the consumer provides documentary evidence (e.g., a certified copy of a court record to show that a judgment has been paid) when submitting the dispute, the creditor may require a shorter time to reinvestigate. On the other hand, where the dispute is more complicated than normal (e.g., the consumer alleges in good faith that a creditor has falsified its report of the consumer's account history because of a personal grudge), the ''reasonable time'' needed to conduct the reinvestigation may be longer.

11. Frivolous or Irrelevant

The mere presence of contradictory information in the file does not provide the consumer reporting agency ''reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant.'' A consumer reporting agency must assume a consumer's dispute is bona fide, unless there is evidence to the contrary. Such evidence may constitute receipt of letters from consumers disputing all information in their files without providing any allegations concerning the specific items in the files, or of several letters in similar format that indicate that a particular third party (e.g., a ''credit repair'' operator) is counselling consumers to dispute all items in their files, regardless of whether the information is known to be accurate. The agency is not required to repeat a reinvestigation that it has previously conducted simply because the consumer reiterates a dispute about the same item of information, unless the consumer provides additional evidence that the item is inaccurate or incomplete, or alleges changed circumstances.

12. Deletion of Accurate Information That has not Been Disputed

The consumer reporting agency is not required to delete accurate information that could not be verified upon reinvestigation, if it has not been ''disputed by a consumer.'' For example, if a creditor deletes adverse information from its files with the result that information could not be reverified if disputed, it is still permissible for a consumer reporting agency to report it (subject to the obsolescence provisions of section 605) until it is disputed.

13. Consumer Dispute Statements on Multiple Items

A consumer who disputes multiple items of information in his file may submit a one hundred word statement as to each disputed item.

14. Conveying Dispute Statements to Recipients of Subsequent Reports.

A consumer reporting agency may not merely tell the recipient of a subsequent report containing disputed information that the consumer's statement is on file but will be provided only if requested, because subsection (c) requires the agency to provide either the statement or ''a clear and accurate codification or summary thereof.''

Section 612—Charges for Certain Disclosures

''A consumer reporting agency shall make all disclosures pursuant to section 609 and furnish all consumer reports pursuant to section 611(d) without charge to the consumer if, within thirty days after receipt by such consumer of a notification pursuant to section 615 or notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609 or 611(d). Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer for

making disclosure to such consumer pursuant to section 609, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to persons designated by the consumer pursuant to section 611(d), the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.''

1. Irrelevance of Subsequent Grant of Credit or Reason for Denial

A consumer denied credit because of a consumer report from a consumer reporting agency has the right to a free disclosure from that agency within 30 days of receipt of the section 615(a) notice, even if credit was subsequently granted or the basis of the denial was that the references supplied by the consumer are too few or too new to appear in the credit file.

2. Charge for Reinvestigation Prohibited

This section does not permit consumer reporting agencies to charge for making the reinvestigation or following other procedures required by section 611 (a)–(c).

3. Permissible Charges for Services Requested by Consumers

A consumer reporting agency may charge fees for creating files on consumers at their request, or for other services not required by the FCRA that are requested by consumers.

Section 613—Public Record Information for Employment Purposes

''A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall—

(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.''

1. Relation to Other Sections

A consumer reporting agency that complies with section 613(1) must also follow reasonable procedures to assure maximum possible accuracy, as required by section 607(b).

2. Alternate Methods of Compliance

A consumer reporting agency that furnishes public record information for employment purposes must comply with either subsection (1) or (2), but need not comply with both.

3. Information From Another Consumer Reporting Agency

If a consumer reporting agency uses information or reports from other consumer reporting agencies in a report for employment purposes, it must comply with this section.

4. Method of Providing Notice

A consumer reporting agency may use first class mail to provide the notice required by subsection (1).

5. Waiver

The procedures required by this section cannot be waived by the consumer to whom the report relates.

Section 614—Restrictions on Investigative Consumer Reports

''Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished.''

Section 615—Requirements on Users of Consumer Reports

(a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report.

(b) Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within 60 days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of subsections (a) and (b).''

1. Relation to Other Sections and Regulation B

Sections 606 and 615 are the only two sections that require users of reports to make disclosures to consumers. Section 606 applies only to users of ''investigative consumer reports.'' Creditors should not confuse compliance with section 615(a), which only requires disclosure of the name and address of the consumer reporting agency, and compliance with the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.* and Regulation B, 12 C.F.R. 202, which require disclosure of the *reasons* for adverse action. Compliance with section 615(a), therefore, does not constitute compliance with Regulation B.

2. Limited Scope of Requirements

The section does not require that creditors disclose their credit criteria or standards or that employees furnish copies of personnel files to former employees. The section does not require that the user provide any kind of advance notification to consumers before a consumer report is obtained. (See section 606 regarding notice of investigative consumer reports.)

3. Method of Disclosure

The disclosures required by this section need not be made in writing. However, users will have evidence that they have taken reasonable steps to comply with this section if they provide written disclosures and retain copies for at least two years, the applicable statute of limitations for most civil liability actions under the FCRA.

4. Adverse Action Based on Direct Information

This section does not require that a user send any notice to a consumer concerning adverse action regarding that consumer that is based neither on information from a consumer reporting agency nor on information from a third party. For example, no disclosures are required concerning adverse action based on information provided by the consumer in an application or based on past experience in direct transactions with the consumer.

5. Creditors Using ''Prescreened'' Mailing Lists

A creditor is not required to provide notices regarding consumer reporting agencies that prepare mailing lists by ''prescreening'' because they do not involve consumer requests for credit and credit has not been denied to consumers whose names are deleted from a list furnished to the agency for use in this procedure. See discussion of ''prescreening,'' under section 604(3)(A), item 6, *supra*.

6. Applicability to Users of Motor Vehicle Reports

An insurer that refuses to issue a policy, or charges a higher than normal premium, based on a motor vehicle report is required to comply with subsection(a).

7. Securities and Insurance Transactions

A consumer report user that denies credit to a consumer in connection with a securities transaction must provide the required notice, because the denial is of ''credit * * * for personal purposes,'' unless the consumer engages in such transactions as a business.

8. Denial of Employment

An employer must provide the notice required by subsection (a) to an individual who has applied for employment and has been rejected based on a consumer report. However, an employer is not required to send a notice when it decides not to offer a position to an individual who has not applied for it, because in this case employment is not ''denied.'' (See discussion in section 606, item 4, *supra*.)

9. Adverse Action Involving Credit

A creditor must provide the required notice when it denies the consumer's request for credit (including a rejection based on a scoring system, where a credit report received less than the maximum number of points possible and caused the application to receive an insufficient score), denies the consumer's request for increased credit, grants credit in an amount less than the consumer requested, or raises the charge for credit.

10. Adverse Action Not Involving Credit, Insurance or Employment

The Act does not require that a report user provide any notice to consumers when taking adverse action not relating to credit, insurance or employment. For example, a landlord who refuses to rent an apartment to a consumer based on credit or other information in a consumer report need not provide the notice. Similarly, a party that uses credit or other information in a consumer report as a basis for refusing to accept payment by check need not comply with this section. Checks have historically been treated as cash items, and thus such refusal does not involve a denial of credit, insurance or employment.

11. Adverse Action Based on Non-derogatory Adverse Information

A party taking adverse action concerning credit or insurance or denying employment, ''wholly or partly because of information contained in a consumer report,'' must provide the required notice, even if the information is not derogatory. For example, the user must give the notice if the denial is based wholly or partly on the absence of a file or on the fact that the file contained insufficient references.

12. Name and Address of the Consumer Reporting Agency

The ''section 615(a)'' notice must include the consumer reporting agency's street address, not just a post office box address.

13. Agency To Be Identified

The consumer report user should provide the name and address of the consumer reporting agency from which it obtained the consumer report, even if that agency obtained all or part of the report from another agency.

14. Denial Based Partly on a Consumer Report

A ''section 615(a)'' notice must be sent even if the adverse action is based only partly on a consumer report.

15. Denial of Credit Based on Information From ''Third Parties''

Subsection (b) imposes requirements on a creditor when it denies (or increases the charge for) credit for personal, family or household purposes involving a consumer, based on information from a ''third party'' source, which means a source *other* than the consumer reporting agency, the creditor's own files, or the consumer's application (e.g., creditor, employer, landlord, or the public record). Where a creditor denies a consumer's application based on information obtained directly from another lender, even if the lender's name was furnished to the creditor by a consumer reporting agency, the creditor must give a ''third party'' disclosure.

16. Substance of Required ''Third Party'' Disclosures

When the adverse action is communicated to the consumer, the creditor must clearly and accurately disclose to the consumer his or her right to make a written request for the disclosure of the nature of the third party information that led to the adverse action. Upon timely receipt of such a request, however, the creditor need disclose only the nature of the information that led to the adverse action (e.g., history of late rent payments or bad checks); it need not identify the source that provided the information or the criteria that led to the adverse action. A creditor may comply with subsection (b) by providing a statement of the nature of the third party information that led to the denial when it notifies the consumer of the denial. A statement of principal, specific reasons for adverse action based on third party information that is sufficient to comply with the requirements of the Equal Credit Opportunity Act (e.g., ''unable to verify employment'') is sufficient to constitute disclosure of the ''nature of the information'' under subsection (b).

Section 616—Civil Liability for Willful Noncompliance

Section 616 permits consumers who sue and prove willful noncompliance with the Act to recover actual damages, punitive damages, and the costs of the action, together with reasonable attorney's fees.

Section 617—Civil Liability for Negligent Noncompliance

Section 617 permits consumers who sue and prove negligent noncompliance with the Act to recover actual damages and the costs of the action, together with reasonable attorney's fees.

Section 618—Jurisdiction of Courts; Limitation of Actions

Section 618 provides that any action brought under section 616 or section 617 may be brought in any United States district court or other court of competent jurisdiction. Such suit must be brought within two years from the date on which liability arises, unless a defendant has materially and willfully misrepresented information the Act requires to be disclosed, and the information misrepresented is material to establishment of the defendant's liability. In that event, the action must be brought within two years after the individual discovers the misrepresentation.

Section 619—Obtaining Information Under False Pretense

Section 619 provides criminal sanctions against any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses.

1. Relation to Other Sections

The presence of this provision does not excuse a consumer reporting agency's failure to follow reasonable procedures, as required by section 607(a), to limit the furnishing of consumer reports to the purposes listed under section 604.

Section 620—Unauthorized Disclosures by Officers or Employees

Section 620 provides criminal sanctions against any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's file to a person not authorized to receive it.

Section 621—Administrative Enforcement

This section gives the Federal Trade Commission authority to enforce the Act with respect to consumer reporting agencies, users of reports, and all others, except to the extent that it gives enforcement jurisdiction specifically to some other agency. Those excepted from the Commission's enforcement jurisdiction include certain financial institutions regulated by Federal agencies or boards, Federal credit unions, common carriers subject to acts to regulate commerce, air carriers, and parties subject to the Packers and Stockyards Act, 1921.

1. General

The Commission can use its cease-and-desist power and other procedural, investigative and enforcement powers which it has under the FTC Act to secure compliance, irrespective of commerce or any other jurisdictional tests in the FTC Act.

2. Geographic Coverage

The Commission's authority encompasses the United States, the District of Columbia, the Commonwealth of Puerto Rico, and all United States territories but does not extend to activities outside those areas.

3. Status of Commission Commentary and Staff Interpretations

The FCRA does not give any Federal agency authority to promulgate rules having the force and effect, of statutory provisions. The Commission has issued this Commentary, superseding the eight formal Interpretations of the Act (16 CFR 600.1–600.8), previously issued pursuant to §1.73 of the Commission's Rules, 16 CFR 1.73. The Commentary does not constitute substantive rules and does not have the force or effect of statutory provisions. It constitutes guidelines to clarify the Act that are advisory in nature and represent the Commission's views as to what particular provisions of the Act mean. Staff opinion letters constitute staff interpretations of the Act's provisions, but do not have the force or effect of statutory provisions and, as provided in §1.72 of the Commission's Rules, 16 CFR 1.72, do not bind the Commission.

Section 622—Relation to State Laws

''This title does not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the collection, distribution, or use of any information on consumers, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.''

1. Basic Rule

State law is pre-empted by the FCRA only when compliance with inconsistent State law would result in violation of the FCRA.

2. Examples of Statutes that are not Pre-empted

A State law requirement that an employer provide notice to a consumer before ordering a consumer report, or that a consumer reporting agency must provide the consumer with a written copy of his file, would not be pre-empted, because a party that complies with such provisions would not violate the FCRA.

3. Examples of Statutes that are Pre-empted

A State law authorizing grand juries to compel consumer reporting agencies to provide consumer reports, by means of subpoenas signed by a court clerk, is pre-empted by the FCRA's requirement that such reports be furnished only pursuant to an ''order of the court'' signed by a judge (section 604(1)), or furnished for other purposes not applicable to grand jury subpoenas (section 604 (2)–(3)), and by section 607(a). A State statute requiring automatic disclosure of a deletion or dispute statement to every person who has previously received a consumer report containing the disputed information, regardless of whether the consumer designates such persons to receive this disclosure, is pre-empted by section 604 of the FCRA, which permits disclosure only for specified, permissible purposes and by section 607(a), which requires consumer reporting agencies to limit the furnishing of consumer reports to purposes listed under section 604. Absent a specific designation by the consumer, the consumer reporting agency has no reason to believe all past recipients would have a

present, permissible purpose to receive the reports.

4. Statute Providing Access for Enforcement Purposes

A State ''little FCRA'' that permits State officials access to a consumer reporting agency's files for the purpose of enforcing that statute just as Federal agencies are permitted access to such files under the FCRA, is not pre-empted by the FCRA.

(Information collection requirements in this appendix were approved by the Office of Management and Budget under control number 3084–0091)

[55 FR 18808, May 4, 1990, as amended at 57 FR 4935, Feb. 11, 1992; 60 FR 45660, Sept. 1, 1995]

PART 602—FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

AUTHORITY: 15 U.S.C. 1681s; sec. 3, Pub. L. 108–159; 117 Stat. 1953.

§ 602.1 Effective dates.

(a)–(b) [Reserved]

(c) The applicable provisions of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), Pub. L. 108–159, 117 Stat. 1952, shall be effective in accordance with the following schedule:

(1) *Provisions effective December 31, 2003.*

(i) Sections 151(a)(2), 212(e), 214(c), 311(b), and 711, concerning the relation to state laws; and

(ii) Each of the provisions of the FACT Act that authorizes an agency to issue a regulation or to take other action to implement the applicable provision of the FACT Act or the applicable provision of the Fair Credit Reporting Act, as amended by the FACT Act, but only with respect to that agency's authority to propose and adopt the implementing regulation or to take such other action.

(2) *Provisions effective March 31, 2004.*

(i) Section 111, concerning the definitions;

(ii) Section 156, concerning the statute of limitations

(iii) Sections 312(d), (e), and (f), concerning the furnisher liability exception, liability and enforcement, and rule of construction, respectively;

(iv) Section 313(a), concerning action regarding complaints;

(v) Section 611, concerning communications for certain employee investigations; and

(vi) Section 811, concerning clerical amendments.

(3) *Provisions effective December 1, 2004.*

(i) Section 112, concerning fraud alerts and active duty alerts;

(ii) Section 114, concerning procedures for the identification of possible instances of identity theft;

(iii) Section 115, concerning truncation of the social security number in a consumer report;

(iv) Section 151(a)(1), concerning the summary of rights of identity theft victims;

(v) Section 152, concerning blocking of information resulting from identity theft;

(vi) Section 153, concerning the coordination of identity theft complaint investigations;

(vii) Section 154, concerning the prevention of repollution of consumer reports;

(viii) Section 155, concerning notice by debt collectors with respect to fraudulent information;

(ix) Section 211(c), concerning a summary of rights of consumers;

(x) Section 212(a)–(d), concerning the disclosure of credit scores;

(xi) Section 213(c), concerning duration of elections;

(xii) Section 217(a), concerning the duty to provide notice to a consumer;

(xiii) Section 311(a), concerning the risk-based pricing notice;

(xiv) Section 312(a)–(c), concerning procedures to enhance the accuracy and integrity of information furnished to consumer reporting agencies;

(xv) Section 314, concerning improved disclosure of the results of reinvestigation;

(xvi) Section 315, concerning reconciling addresses;

(xvii) Section 316, concerning notice of dispute through reseller; and

(xviii) Section 317, concerning the duty to conduct a reasonable reinvestigation.

[69 FR 29063, May 20, 2004]

PART 603—DEFINITIONS

AUTHORITY: Pub. L. 108–159, sec. 111; 15 U.S.C. 1681a.

§ 603.1 Terms defined in the Fair Credit Reporting Act.

Any term used in any part in this subchapter, if defined in the Fair Credit Reporting Act (FCRA) and not otherwise defined in that rule, has the same meaning provided by the FCRA.

[69 FR 29063, May 20, 2004]

EDITORIAL NOTE: At 69 FR 63933, November 3, 2004, part 603 was added to title 16. However, part 603 already existed, therefore this amendement could not be incorporated. For the convenience of the user, the added text is set forth as follows:

PART 603—DEFINITIONS

Sec.
603.1 [Reserved]
603.2 Identity theft.
603.3 Identity theft report.

AUTHORITY: Pub. L. 108–159, sec 111; 15 U.S.C. 1681a.

§ 603.1 [Reserved]

§ 603.2 Identity theft.

(a) The term ''identity theft'' means a fraud committed or attempted using the identifying information of another person without authority.

(b) The term ''identifying information'' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any—

(1) Name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(2) Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(3) Unique electronic identification number, address, or routing code; or

(4) Telecommunication identifying information or access device (as defined in 18 U.S.C. 1029(e)).

§ 603.3 Identity theft report.

(a) The term ''identity theft report'' means a report—

(1) That alleges identity theft with as much specificity as the consumer can provide;

(2) That is a copy of an official, valid report filed by the consumer with a Federal, State, or local law enforcement agency, including the United States Postal Inspection Service, the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information, if, in fact, the information in the report is false; and

(3) That may include additional information or documentation that an information furnisher or consumer reporting agency reasonably requests for the purpose of determining the validity of the alleged identity theft, provided that the information furnisher or consumer reporting agency:

(i) Makes such request not later than fifteen days after the date of receipt of the copy of the report form identified in paragraph (a)(2) of this section or the request by the consumer for the particular service, whichever shall be the later;

(ii) Makes any supplemental requests for information or documentation and final determination on the acceptance of the identity theft report within another fifteen days after its initial request for information or documentation; and

(iii) Shall have five days to make a final determination on the acceptance of the identity theft report, in the event that the consumer reporting agency or information furnisher receives any such additional information or documentation on the eleventh day or later within the fifteen day period set forth in paragraph (a)(3)(ii) of this section.

(b) Examples of the specificity referenced in paragraph (a)(1) of this section are provided for illustrative purposes only, as follows:

(1) Specific dates relating to the identity theft such as when the loss or theft of personal information occurred or when the fraud(s) using the personal information occurred, and how the consumer discovered or otherwise learned of the theft.

(2) Identification information or any other information about the perpetrator, if known.

(3) Name(s) of information furnisher(s), account numbers, or other relevant account information related to the identity theft.

(4) Any other information known to the consumer about the identity theft.

(c) Examples of when it would or would not be reasonable to request additional information or documentation referenced in paragraph (a)(3) of this section are provided for illustrative purposes only, as follows:

(1) A law enforcement report containing detailed information about the identity theft and the signature, badge number or other identification information of the individual law enforcement official taking the report should be sufficient on its face to support a victim's request. In this case, without an identifiable concern, such as an indication that the report was fraudulent, it would not be reasonable for an information furnisher or

consumer reporting agency to request additional information or documentation.

(2) A consumer might provide a law enforcement report similar to the report in paragraph (c)(1) of this section but certain important information such as the consumer's date of birth or Social Security number may be missing because the consumer chose not to provide it. The information furnisher or consumer reporting agency could accept this report, but it would be reasonable to require that the consumer provide the missing information.

(3) A consumer might provide a law enforcement report generated by an automated system with a simple allegation that an identity theft occurred to support a request for a tradeline block or cessation of information furnishing. In such a case, it would be reasonable for an information furnisher or consumer reporting agency to ask that the consumer fill out and have notarized the Commission's ID Theft Affidavit or a similar form and provide some form of identification documentation.

(4) A consumer might provide a law enforcement report generated by an automated system with a simple allegation that an identity theft occurred to support a request for an extended fraud alert. In this case, it would not be reasonable for a consumer reporting agency to require additional documentation or information, such as a notarized affidavit.

PART 604—FAIR CREDIT REPORTING ACT RULES

AUTHORITY: Pub. L. 108–159, secs. 3, 111, 112, 114, 151, 153, 211, 212, 213, 214, 216, 311, 315; 15 U.S.C. 1681s.

§604.1 Severability.

All parts and subparts of this subchapter are separate and severable from one another. If any part or subpart is stayed or determined to be invalid, the Commission intends that the remaining parts and subparts shall continue in effect.

[69 FR 29063, May 20, 2004]

PART 610–FREE ANNUAL FILE DISCLOSURES

Sec.

610.1 Definitions and rule of construction.
610.2 Centralized source for requesting annual file disclosures from nationwide consumer reporting agencies.
610.3 Streamlined process for requesting annual file disclosures from nationwide specialty consumer reporting agencies.

AUTHORITY: Pub. L. 108–159, sections 211 (a) and (d).

SOURCE: 69 FR 35496, June 24, 2004, unless otherwise noted.

§610.1 Definitions and rule of construction.

(a) The definitions and rule of construction set forth in this section apply throughout this part.

(b) *Definitions.* (1) *Annual file disclosure* means a file disclosure that is provided to a consumer, upon consumer request and without charge, once in any 12-month period, in compliance with section 612(a) of the Fair Credit Reporting Act, 15 U.S.C. 1681j(a).

(2) *Associated consumer reporting agency* means a consumer reporting agency that owns or maintains consumer files housed within systems operated by one or more nationwide consumer reporting agencies.

(3) *Consumer* means an individual.

(4) *Consumer report* has the meaning provided in section 603(d) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(d).

(5) *Consumer reporting agency* has the meaning provided in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(f).

(6) *Extraordinary request volume,* except as provided in sections 610.2(i) and 610.3(g) of this part, occurs when the number of consumers requesting or attempting to request file disclosures during any 24-hour period is more than 175% of the rolling 90-day daily average of consumers requesting or attempting to request file disclosures. For example, if over the previous 90 days an average of 100 consumers per day requested or attempted to request file disclosures, then extraordinary request volume would be any volume greater than 175% of 100, i.e., 176 or more requests in a single 24-hour period.

(7) *File disclosure* means a disclosure by a consumer reporting agency pursuant to section 609 of the Fair Credit Reporting Act, 15 U.S.C. 1681g.

(8) *High request volume,* except as provided in sections 610.2(i) and 610.3(g) of this part, occurs when the number of consumers requesting or attempting to

request file disclosures during any 24-hour period is more than 125% of the rolling 90-day daily average of consumers requesting or attempting to request file disclosures. For example, if over the previous 90 days an average of 100 consumers per day requested or attempted to request file disclosures, then high request volume would be any volume greater than 125% of 100, i.e., 126 or more requests in a single 24-hour period.

(9) *Nationwide consumer reporting agency* means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as defined in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p).

(10) *Nationwide specialty consumer reporting agency* has the meaning provided in section 603(w) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(w).

(11) *Request method* means the method by which a consumer chooses to communicate a request for an annual file disclosure.

(c) *Rule of construction*. The examples in this part are illustrative and not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

§ 610.2 Centralized source for requesting annual file disclosures from nationwide consumer reporting agencies.

(a) *Purpose*. The purpose of the centralized source is to enable consumers to make a single request to obtain annual file disclosures from all nationwide consumer reporting agencies, as required under section 612(a) of the Fair Credit Reporting Act, 15 U.S.C. 1681j(a).

(b) *Establishment and operation*. All nationwide consumer reporting agencies shall jointly design, fund, implement, maintain, and operate a centralized source for the purpose described in paragraph (a) of this section. The centralized source required by this part shall:

(1) Enable consumers to request annual file disclosures by any of the following request methods, at the consumers option:

(i) A single, dedicated Internet website;

(ii) A single, dedicated toll-free telephone number; and

(iii) Mail directed to a single address;

(2) Be designed, funded, implemented, maintained, and operated in a manner that:

(i) Has adequate capacity to accept requests from the reasonably anticipated volume of consumers contacting the centralized source through each request method, as determined in accordance with paragraph (c) of this section;

(ii) Collects only as much personally identifiable information as is reasonably necessary to properly identify the consumer as required under the Fair Credit Reporting Act, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations, and to process the transaction(s) requested by the consumer;

(iii) Provides information through the centralized source website and telephone number regarding how to make a request by all request methods required under section 610.2(b)(1) of this part; and

(iv) Provides clear and easily understandable information and instructions to consumers, including, but not necessarily limited to:

(A) Providing information on the progress of the consumers request while the consumer is engaged in the process of requesting a file disclosure;

(B) For a website request method, providing access to a ''help'' or ''frequently asked questions'' screen, which includes specific information that consumers might reasonably need to request file disclosures, the answers to questions that consumers might reasonably ask, and instructions whereby a consumer may file a complaint with the centralized source and with the Federal Trade Commission;

(C) In the event that a consumer requesting a file disclosure through the centralized source cannot be properly identified in accordance with the Fair Credit Reporting Act, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations, providing a statement that the consumers identity cannot be verified; and directions on how to complete the request, including what additional information or documentation will be required to complete

the request, and how to submit such information; and

(D) A statement indicating that the consumer has reached the website or telephone number operated by the national credit reporting agencies for ordering free annual credit reports, as required by federal law; and

(3) Make available to consumers a standardized form established jointly by the nationwide consumer reporting agencies, which consumers may use to make a request for an annual file disclosure, either by mail or on the Internet website required under section 610.2(b)(1) of this part, from the centralized source required by this part. The form provided at 16 CFR Part 698, Appendix D, may be used to comply with this section.

(c) *Requirement to anticipate.* The nationwide consumer reporting agencies shall implement reasonable procedures to anticipate, and to respond to, the volume of consumers who will contact the centralized source through each request method, to request, or attempt to request, a file disclosure, including developing and implementing contingency plans to address circumstances that are reasonably likely to occur and that may materially and adversely impact the operation of the nationwide consumer reporting agency, a centralized source request method, or the centralized source.

(1) The contingency plans required by this section shall include reasonable measures to minimize the impact of such circumstances on the operation of the centralized source and on consumers contacting, or attempting to contact, the centralized source.

(i) Such reasonable measures to minimize impact shall include, but are not necessarily limited to:

(A) To the extent reasonably practicable under the circumstances, providing information to consumers on how to use another available request method;

(B) To the extent reasonably practicable under the circumstances, communicating, to a consumer who attempts but is unable to make a request, the fact that a condition exists that has precluded the centralized source from accepting all requests, and the period of time after which the centralized source is reasonably anticipated to be able to accept the consumers request for an annual file disclosure; and

(C) Taking all reasonable steps to restore the centralized source to normal operating status as quickly as reasonably practicable under the circumstances.

(ii) Reasonable measures to minimize impact may also include, as appropriate, collecting request information but declining to accept the request for processing until a reasonable later time, provided that the consumer is clearly and prominently informed, to the extent reasonably practicable under the circumstances, of when the request will be accepted for processing.

(2) A nationwide consumer reporting agency shall not be deemed in violation of section 610.2(b)(2)(i) of this part if a centralized source request method is unavailable to accept requests for a reasonable period of time for purposes of conducting maintenance on the request method, provided that the other required request methods remain available during such time.

(d) *Disclosures required.* If a nationwide consumer reporting agency has the ability to provide a consumer report to a third party relating to a consumer, regardless of whether the consumer report is owned by that nationwide consumer reporting agency or by an associated consumer reporting agency, that nationwide consumer reporting agency shall, upon proper identification in compliance with section 610(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. 1681h(a)(1), provide an annual file disclosure to such consumer if the consumer makes a request through the centralized source.

(e) *High Request volume and extraordinary request volume*—(1) *High request volume.* Provided that a nationwide consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (c) of this section, entitled ''requirement to anticipate,'' the nationwide consumer reporting agency shall not be deemed in violation of paragraph (b)(2)(i) of this section for any period of time in which a centralized source request method, the centralized source, or the nationwide consumer reporting

agency experiences high request volume, if the nationwide consumer reporting agency:

(i) Collects all consumer request information and delays accepting the request for processing until a reasonable later time; and

(ii) Clearly and prominently informs the consumer of when the request will be accepted for processing.

(2) *Extraordinary request volume.* Provided that the nationwide consumer reporting agency has implemented reasonable procedures developed in compliance with paragraph (c) of this section, entitled ''requirement to anticipate,'' the nationwide consumer reporting agency shall not be deemed in violation of paragraph (b)(2)(i) of this section for any period of time during which a particular centralized source request method, the centralized source, or the nationwide consumer reporting agency experiences extraordinary request volume.

(f) *Information use and disclosure.* Any personally identifiable information collected from consumers as a result of a request for annual file disclosure, or other disclosure required by the Fair Credit Reporting Act, made through the centralized source, may be used or disclosed by the centralized source or a nationwide consumer reporting agency only:

(1) To provide the annual file disclosure or other disclosure required under the FCRA requested by the consumer;

(2) To process a transaction requested by the consumer at the same time as a request for annual file disclosure or other disclosure;

(3) To comply with applicable legal requirements, including those imposed by the Fair Credit Reporting Act and this part; and

(4) To update personally identifiable information already maintained by the nationwide consumer reporting agency for the purpose of providing consumer reports, provided that the nationwide consumer reporting agency uses and discloses the updated personally identifiable information subject to the same restrictions that would apply, under any applicable provision of law or regulation, to the information updated or replaced.

(g) *Communications provided by centralized source.* (1) Any communications or instructions, including any advertising or marketing, provided through the centralized source shall not interfere with, detract from, contradict, or otherwise undermine the purpose of the centralized source stated in paragraph (a) of this section.

(2) Examples of interfering, detracting, inconsistent, and/or undermining communications include:

(i) A website that contains pop-up advertisements or other offers or promotions that hinder the consumers ability to complete an online request for an annual file disclosure;

(ii) Centralized source materials that represent, expressly or by implication, that a consumer must purchase a paid product in order to receive or to understand the annual file disclosure;

(iii) Centralized source materials that represent, expressly or by implication, that annual file disclosures are not free, or that obtaining an annual file disclosure will have a negative impact on the consumers credit standing; and

(iv) Centralized source materials that falsely represent, expressly or by implication, that a product or service offered ancillary to receipt of a file disclosure, such as a credit score or credit monitoring service, is free, or fail to clearly and prominently disclose that consumers must cancel a service, advertised as free for an initial period of time, to avoid being charged, if such is the case.

(h) *Effective date.* Sections 610.1 and 610.2 shall become effective on December 1, 2004.

(i) *Transition*—(1) *Regional rollout.* The centralized source required by this part shall be made available to consumers in a cumulative manner, as follows:

(i) For consumers residing in Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming, the centralized source shall become available on or before December 1, 2004;

(ii) For consumers residing in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North

Dakota, Ohio, South Dakota, and Wisconsin, the centralized source shall become available on or before March 1, 2005;

(iii) For consumers residing in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas, the centralized source shall become available on or before June 1, 2005; and

(iv) For all other consumers, including consumers residing in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and all United States territories and possessions, the centralized source shall become available on or before September 1, 2005.

(2) *High request volume during transition*—(i) *During the period of December 1, 2004 through December 7, 2004,* high request volume shall mean the following:

(A) For an individual request method: High request volume occurs when the number of consumers contacting or attempting to contact the centralized source through the request method in any 24-hour period is more than 115% of the daily total number of consumers that were reasonably anticipated to contact the centralized source, in compliance with paragraph (c) of this section, through that request method.

(B) For the centralized source as a whole: High request volume occurs when the number of consumers contacting or attempting to contact the centralized source in any 24-hour period is more than 115% of the daily total number of consumers that were reasonably anticipated to contact the centralized source, in compliance with paragraph (c) of this section, through any request method.

(C) For a nationwide consumer reporting agency: High request volume occurs when the number of consumers contacting or attempting to contact the nationwide consumer reporting agency to request file disclosures in any 24-hour period is more than 115% of the daily total number of consumers that were reasonably anticipated to contact that nationwide consumer reporting agency to request file disclosures, in compliance with paragraph (c) of this section.

(ii) *During the period of December 8, 2004 through August 31, 2005,* high request volume shall mean the following:

(A) For an individual request method: High request volume occurs when the number of consumers contacting or attempting to contact the centralized source through the request method in any 24-hour period is more than 115 % of the rolling 7-day daily average number of consumers who contacted or attempted to contact the centralized source to request file disclosures through that request method.

(B) For the centralized source as a whole: High request volume occurs when the number of consumers contacting or attempting to contact the centralized source in any 24-hour period is more than 115% of the rolling 7-day daily average number of consumers who contacted or attempted to contact the centralized source to request file disclosures through any request method.

(C) For a nationwide consumer reporting agency: High request volume occurs when the number of consumers contacting or attempting to contact the nationwide consumer reporting agency to request file disclosures in any 24-hour period is more than 115% of the rolling 7-day daily average of consumers who requested any type of file disclosure from that nationwide consumer reporting agency.

(3) *Extraordinary request volume during transition*—(i) *During the period of December 1, 2004 through December 7, 2004,* extraordinary request volume shall mean the following:

(A) For an individual request method: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact the centralized source through the request method in any 24-hour period is more than 175% of the daily total number of consumers that were reasonably anticipated to contact the centralized source, in compliance with paragraph (c) of this section, through that request method.

(B) For the centralized source as a whole: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact

the centralized source in any 24-hour period is more than 175% of the daily total number of consumers that were reasonably anticipated to contact the centralized source, in compliance with paragraph (c) of this section, through any request method.

(C) For a nationwide consumer reporting agency: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact the nationwide consumer reporting agency to request file disclosures in any 24-hour period is more than 175% of the daily total number of consumers that were reasonably anticipated to contact that nationwide consumer reporting agency to request their file disclosures, in compliance with paragraph (c) of this section.

(ii) *During the period of December 8, 2004 through August 31, 2005*, extraordinary request volume shall mean the following:

(A) For an individual request method: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact the centralized source through the request method in a 24-hour period is more than 175% of the rolling 7-day daily average number of consumers who contacted or attempted to contact the centralized source to request file disclosures through that request method.

(B) For the centralized source as a whole: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact the centralized source in a 24-hour period is more than 175% of the rolling 7-day daily average number of consumers who contacted or attempted to contact the centralized source to request file disclosures through any request method.

(C) For a nationwide consumer reporting agency: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact the nationwide consumer reporting agency to request file disclosures in a 24-hour period is more than 175% of the rolling 7-day daily average of consumers who requested any type of file disclosure from that nationwide consumer reporting agency.

§ 610.3 Streamlined process for requesting annual file disclosures from nationwide specialty consumer reporting agencies.

(a) *Streamlined process requirements.* Any nationwide specialty consumer reporting agency shall have a streamlined process for accepting and processing consumer requests for annual file disclosures. The streamlined process required by this part shall:

(1) Enable consumers to request annual file disclosures by a toll-free telephone number that:

(i) Provides clear and prominent instructions for requesting disclosures by any additional available request methods, that do not interfere with, detract from, contradict, or otherwise undermine the ability of consumers to obtain annual file disclosures through the streamlined process required by this part;

(ii) Is published, in conjunction with all other published numbers for the nationwide specialty consumer reporting agency, in any telephone directory in which any telephone number for the nationwide specialty consumer reporting agency is published; and

(iii) Is clearly and prominently posted on any website owned or maintained by the nationwide specialty consumer reporting agency that is related to consumer reporting, along with instructions for requesting disclosures by any additional available request methods; and

(2) Be designed, funded, implemented, maintained, and operated in a manner that:

(i) Has adequate capacity to accept requests from the reasonably anticipated volume of consumers contacting the nationwide specialty consumer reporting agency through the streamlined process, as determined in compliance with paragraph (b) of this section;

(ii) Collects only as much personal information as is reasonably necessary to properly identify the consumer as required under the Fair Credit Reporting Act, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations; and

(iii) Provides clear and easily understandable information and instructions to consumers, including but not necessarily limited to:

(A) Providing information on the status of the consumers request while the consumer is in the process of making a request;

(B) For a website request method, providing access to a ''help'' or ''frequently asked questions'' screen, which includes more specific information that consumers might reasonably need to order their file disclosure, the answers to questions that consumers might reasonably ask, and instructions whereby a consumer may file a complaint with the nationwide specialty consumer reporting agency and with the Federal Trade Commission; and

(C) In the event that a consumer requesting a file disclosure cannot be properly identified in accordance with the Fair Credit Reporting Act, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations, providing a statement that the consumers identity cannot be verified; and directions on how to complete the request, including what additional information or documentation will be required to complete the request, and how to submit such information.

(b) *Requirement to anticipate.* A nationwide specialty consumer reporting agency shall implement reasonable procedures to anticipate, and respond to, the volume of consumers who will contact the nationwide specialty consumer reporting agency through the streamlined process to request, or attempt to request, file disclosures, including developing and implementing contingency plans to address circumstances that are reasonably likely to occur and that may materially and adversely impact the operation of the nationwide specialty consumer reporting agency, a request method, or the streamlined process.

(1) The contingency plans required by this section shall include reasonable measures to minimize the impact of such circumstances on the operation of the streamlined process and on consumers contacting, or attempting to contact, the nationwide specialty consumer reporting agency through the streamlined process.

(i) Such reasonable measures to minimize impact shall include, but are not necessarily limited to:

(A) To the extent reasonably practicable under the circumstances, providing information to consumers on how to use another available request method;

(B) To the extent reasonably practicable under the circumstances, communicating, to a consumer who attempts but is unable to make a request, the fact that a condition exists that has precluded the nationwide specialty consumer reporting agency from accepting all requests, and the period of time after which the agency is reasonably anticipated to be able to accept the consumers request for an annual file disclosure; and

(C) Taking all reasonable steps to restore the streamlined process to normal operating status as quickly as reasonably practicable under the circumstances.

(ii) Measures to minimize impact may also include, as appropriate, collecting request information but declining to accept the request for processing until a reasonable later time, provided that the consumer is clearly and prominently informed, to the extent reasonably practicable under the circumstances, of when the request will be accepted for processing.

(2) A nationwide specialty consumer reporting agency shall not be deemed in violation of section 610.3(a)(2)(i) if the toll-free telephone number required by this part is unavailable to accept requests for a reasonable period of time for purposes of conducting maintenance on the request method, provided that the nationwide specialty consumer reporting agency makes other request methods available to consumers during such time.

(c) *High request volume and extraordinary request volume*—(1) *High request volume.* Provided that the nationwide specialty consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (b) of this section, entitled ''requirement to anticipate,'' a nationwide specialty consumer reporting agency shall not be deemed in violation of paragraph (a)(2)(i) of this section for any period of time during which a streamlined process request method or the nationwide specialty consumer reporting agency experiences

high request volume, if the nationwide specialty consumer reporting agency:

(i) Collects all consumer request information and delays accepting the request for processing until a reasonable later time; and

(ii) Clearly and prominently informs the consumer of when the request will be accepted for processing.

(2) *Extraordinary request volume.* Provided that the nationwide specialty consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (b) of this section, entitled ''requirement to anticipate,'' a nationwide specialty consumer reporting agency shall not be deemed in violation of paragraph (a)(2)(i) of this section for any period of time during which a streamlined process request method or the nationwide specialty consumer reporting agency experiences extraordinary request volume.

(d) *Information use and disclosure.* Any personally identifiable information collected from consumers as a result of a request for annual file disclosure, or other disclosure required by the Fair Credit Reporting Act, made through the streamlined process, may be used or disclosed by the nationwide specialty consumer reporting agency only:

(1) To provide the annual file disclosure or other disclosure required under the FCRA requested by the consumer;

(2) To process a transaction requested by the consumer at the same time as a request for annual file disclosure or other disclosure;

(3) To comply with applicable legal requirements, including those imposed by the Fair Credit Reporting Act and this part; and

(4) To update personally identifiable information already maintained by the nationwide specialty consumer reporting agency for the purpose of providing consumer reports, provided that the nationwide specialty consumer reporting agency uses and discloses the updated personally identifiable information subject to the same restrictions that would apply, under any applicable provision of law or regulation, to the information updated or replaced.

(e) *Requirement to accept or redirect requests.* If a consumer requests an annual file disclosure through a method other than the streamlined process established by the nationwide specialty consumer reporting agency in compliance with this part, a nationwide specialty consumer reporting agency shall:

(1) Accept the consumers request; or

(2) Instruct the consumer how to make the request using the streamlined process required by this part.

(f) *Effective date.* This section shall become effective on December 1, 2004.

(g) *High request volume and extraordinary request volume during initial transition.* (1) During the period of December 1, 2004 through February 28, 2005, high request volume shall mean the following:

(i) For an individual request method: High request volume occurs when the number of consumers contacting or attempting to contact the nationwide specialty consumer reporting agency through a streamlined process request method in any 24-hour period is more than 115% of the daily total number of consumers who were reasonably anticipated to contact that request method, in compliance with paragraph (b) of this section.

(ii) For a nationwide specialty consumer reporting agency: High request volume occurs when the number of consumers contacting or attempting to contact the nationwide specialty consumer reporting agency to request file disclosures in any 24-hour period is more than 115% of the number of consumers who were reasonably anticipated to contact the nationwide specialty consumer reporting agency to request their file disclosures, in compliance with paragraph (b) of this section.

(2) *Extraordinary request volume.* During the period of December 1, 2004 through February 28, 2005, extraordinary request volume shall mean the following:

(i) For an individual request method: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact the nationwide specialty consumer reporting agency through a streamlined process request method in any 24-hour period is more than 175% of the daily total number of consumers who were reasonably predicted to contact that

request method, in compliance with paragraph (b) of this section.

(ii) For a nationwide specialty consumer reporting agency: Extraordinary request volume occurs when the number of consumers contacting or attempting to contact the nationwide specialty consumer reporting agency to request file disclosures in any 24-hour period is more than 175% of the number of consumers who were reasonably anticipated to contact the nationwide specialty consumer reporting agency to request their file disclosures, in compliance with paragraph (b) of this section.

PART 611—PROHIBITION AGAINST CIRCUMVENTING TREATMENT AS A NATIONWIDE CONSUMER REPORTING AGENCY

Sec.
611.1 Rule of construction.
611.2 General prohibition.
611.3 Limitation on applicability.

AUTHORITY: Pub. L. 108–159, sec. 211(b); 15 U.S.C. 1681x.

SOURCE: 69 FR 29063, May 20, 2004, unless otherwise noted.

§611.1 Rule of construction.

The examples in this part are illustrative and not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

§611.2 General prohibition.

(a) A consumer reporting agency shall not circumvent or evade treatment as a ''consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' as defined under section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p), by any means, including, but not limited to:

(1) Corporate organization, reorganization, structure, or restructuring, including merger, acquisition, dissolution, divestiture, or asset sale of a consumer reporting agency; or

(2) Maintaining or merging public record and credit account information in a manner that is substantially equivalent to that described in paragraphs (1) and (2) of section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p).

(b) *Examples:*

(1) *Circumvention through reorganization by data type.* XYZ Inc. is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. It restructures its operations so that public record information is assembled and maintained only by its corporate affiliate, ABC Inc. XYZ continues operating as a consumer reporting agency but ceases to comply with the FCRA obligations of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, asserting that it no longer meets the definition found in FCRA section 603 (p), because it no longer maintains public record information. XYZ's conduct is a circumvention or evasion of treatment as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, and thus violates this section.

(2) *Circumvention through reorganization by regional operations.* PDQ Inc. is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. It restructures its operations so that corporate affiliates separately assemble and maintain all information on consumers residing in each state. PDQ continues to operate as a consumer reporting agency but ceases to comply with the FCRA obligations of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, asserting that it no longer meets the definition found in FCRA section 603(p), because it no longer operates on a nationwide basis. PDQ's conduct is a circumvention or evasion of treatment as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, and thus violates this section.

(3) *Circumvention by a newly formed entity.* Smith Co. is a new entrant in the marketplace for consumer reports that bear on a consumer's credit worthiness, standing and capacity. Smith Co. organizes itself into two affiliated companies: Smith Credit Co. and Smith Public Records Co. Smith Credit Co. assembles and maintains credit account information from persons who

furnish that information regularly and in the ordinary course of business on consumers residing nationwide. Smith Public Records Co. assembles and maintains public record information on consumers nationwide. Neither Smith Co. nor its affiliated organizations comply with FCRA obligations of consumer reporting agencies that compile and maintain files on consumers on a nationwide basis. Smith Co.''s conduct is a circumvention or evasion of treatment as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, and thus violates this section.

(4) Bona fide, arms-length transaction with unaffiliated party. Foster Ltd. is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. Foster Ltd. sells its public record information business to an unaffiliated company in a bona fide, arms-length transaction. Foster Ltd. ceases to assemble, evaluate and maintain public record information on consumers residing nationwide, and ceases to offer reports containing public record information. Foster Ltd.''s conduct is not a circumvention or evasion of treatment as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. Foster Ltd.''s conduct does not violate this part.

§ 611.3 Limitation on applicability.

Any person who is otherwise in violation of § 611.2 shall be deemed to be in compliance with this part if such person is in compliance with all obligations imposed upon consumer reporting agencies that compile and maintain files on consumers on a nationwide basis under the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*

PART 613—DURATION OF ACTIVE DUTY ALERTS

Sec.
613.1 Duration of active duty alerts.

AUTHORITY: Pub. L. 108–159, sec. 112(a); 15 U.S.C. 1681c–1.

§ 613.1 Duration of active duty alerts.

The duration of an active duty alert shall be twelve months.

[69 FR 63934, Nov. 3, 2004]

PART 614—APPROPRIATE PROOF OF IDENTITY

Sec.
614.1 Appropriate proof of identity.

AUTHORITY: Pub. L. 108–159, sec. 112(b).

§ 614.1 Appropriate proof of identity.

(a) Consumer reporting agencies shall develop and implement reasonable requirements for what information consumers shall provide to constitute proof of identity for purposes of sections 605A, 605B, and 609(a)(1) of the Fair Credit Reporting Act. In developing these requirements, the consumer reporting agencies must:

(1) Ensure that the information is sufficient to enable the consumer reporting agency to match consumers with their files; and

(2) Adjust the information to be commensurate with an identifiable risk of harm arising from misidentifying the consumer.

(b) Examples of information that might constitute reasonable information requirements for proof of identity are provided for illustrative purposes only, as follows:

(1) Consumer file match: The identification information of the consumer including his or her full name (first, middle initial, last, suffix), any other or previously used names, current and/or recent full address (street number and name, apt. no., city, state, and zip code), full 9 digits of Social Security number, and/or date of birth.

(2) Additional proof of identity: copies of government issued identification documents, utility bills, and/or other methods of authentication of a person's identity which may include, but would not be limited to, answering questions to which only the consumer might be expected to know the answer.

[69 FR 63934, Nov. 3, 2004]

PART 642—PRESCREEN OPT-OUT NOTICE

Sec.
642.1 Purpose and scope.
642.2 Definitions.
642.3 Prescreen opt-out notice.
642.4 Effective date.

AUTHORITY: Pub. L. 108–159, sec. 213(a); 15 U.S.C. 1681m(d).

SOURCE: 70 FR 5032, Jan. 31, 2005, unless otherwise noted.

§ 642.1 Purpose and scope.

(a) *Purpose*. This part implements section 213(a) of the Fair and Accurate Credit Transactions Act of 2003, which requires the Federal Trade Commission to establish the format, type size, and manner of the notices to consumers, required by section 615(d) of the Fair Credit Reporting Act (''FCRA''), regarding the right to prohibit (''opt out'' of) the use of information in a consumer report to send them solicitations of credit or insurance.

(b) *Scope*. This part applies to any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, and that is provided to that person under section 604(c)(1)(B) of the FCRA (15 U.S.C. 1681b(c)(1)(B)).

§ 642.2 Definitions.

As used in this part:

(a) *Simple and easy to understand* means:

(1) A layered format as described in § 642.3 of this part;

(2) Plain language designed to be understood by ordinary consumers; and

(3) Use of clear and concise sentences, paragraphs, and sections.

(i) *Examples*. For purposes of this part, examples of factors to be considered in determining whether a statement is in plain language and uses clear and concise sentences, paragraphs, and sections include:

(A) Use of short explanatory sentences;

(B) Use of definite, concrete, everyday words;

(C) Use of active voice;

(D) Avoidance of multiple negatives;

(E) Avoidance of legal and technical business terminology;

(F) Avoidance of explanations that are imprecise and reasonably subject to different interpretations; and

(G) Use of language that is not misleading.

(ii) [Reserved]

(b) *Principal promotional document* means the document designed to be seen first by the consumer, such as the cover letter.

§ 642.3 Prescreen opt-out notice.

Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, and that is provided to that person under section 604(c)(1)(B) of the FCRA (15 U.S.C. 1681b(c)(1)(B)), shall, with each written solicitation made to the consumer about the transaction, provide the consumer with the following statement, consisting of a short portion and a long portion, which shall be in the same language as the offer of credit or insurance:

(a) *Short notice*. The short notice shall be a clear and conspicuous, and simple and easy to understand statement as follows:

(1) *Content*. The short notice shall state that the consumer has the right to opt out of receiving prescreened solicitations, and shall provide the toll-free number the consumer can call to exercise that right. The short notice also shall direct the consumer to the existence and location of the long notice, and shall state the heading for the long notice. The short notice shall not contain any other information.

(2) *Form*. The short notice shall be:

(i) In a type size that is larger than the type size of the principal text on the same page, but in no event smaller than 12-point type, or if provided by electronic means, then reasonable steps shall be taken to ensure that the type size is larger than the type size of the principal text on the same page;

(ii) On the front side of the first page of the principal promotional document in the solicitation, or, if provided electronically, on the same page and in close proximity to the principal marketing message;

(iii) Located on the page and in a format so that the statement is distinct

from other text, such as inside a border; and

(iv) In a type style that is distinct from the principal type style used on the same page, such as bolded, italicized, underlined, and/or in a color that contrasts with the color of the principal text on the page, if the solicitation is in more than one color.

(b) *Long notice*. The long notice shall be a clear and conspicuous, and simple and easy to understand statement as follows:

(1) *Content*. The long notice shall state the information required by section 615(d) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)). The long notice shall not include any other information that interferes with, detracts from, contradicts, or otherwise undermines the purpose of the notice.

(2) *Form*. The long notice shall:

(i) Appear in the solicitation;

(ii) Be in a type size that is no smaller than the type size of the principal text on the same page, and, for solicitations provided other than by electronic means, the type size shall in no event be smaller than 8-point type;

(iii) Begin with a heading in capital letters and underlined, and identifying the long notice as the ''PRESCREEN & OPT-OUT NOTICE'';

(iv) Be in a type style that is distinct from the principal type style used on the same page, such as bolded, italicized, underlined, and/or in a color that contrasts with the color of the principal text on the page, if the solicitation is in more than one color; and

(v) Be set apart from other text on the page, such as by including a blank line above and below the statement, and by indenting both the left and right margins from other text on the page.

§ 642.4 Effective date.

This part is effective on August 1, 2005.

PART 682—DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS

Sec.

682.1 Definitions.
682.2 Purpose and scope.
682.3 Proper disposal of consumer information.
682.4 Relation to other laws.
682.5 Effective date.

AUTHORITY: Pub. L. 108–159, sec. 216.

SOURCE: 69 FR 68697, Nov. 24, 2004, unless otherwise noted

§ 682.1 Definitions.

(a) *In general*. Except as modified by this part or unless the context otherwise requires, the terms used in this part have the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq*.

(b) ''*Consumer information*'' means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.

(c) ''*Dispose*,'' ''*disposing*,'' or ''*disposal*'' means:

(1) The discarding or abandonment of consumer information, or

(2) The sale, donation, or transfer of any medium, including computer equipment, upon which consumer information is stored.

§ 682.2 Purpose and scope.

(a) *Purpose*. This part (''rule'') implements section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and related harms, including identity theft, created by improper disposal of consumer information.

(b) *Scope*. This rule applies to any person over which the Federal Trade Commission has jurisdiction, that, for a business purpose, maintains or otherwise possesses consumer information.

§ 682.3 Proper disposal of consumer information.

(a) *Standard*. Any person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

(b) *Examples*. Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with the rule in this part.

(1) Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so that the information cannot practicably be read or reconstructed.

(2) Implementing and monitoring compliance with policies and procedures that require the destruction or erasure of electronic media containing consumer information so that the information cannot practicably be read or reconstructed.

(3) After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule. In this context, due diligence could include reviewing an independent audit of the disposal company's operations and/or its compliance with this rule, obtaining information about the disposal company from several references or other reliable sources, requiring that the disposal company be certified by a recognized trade association or similar third party, reviewing and evaluating the disposal company's information security policies or procedures, or taking other appropriate measures to determine the competency and integrity of the potential disposal company.

(4) For persons or entities who maintain or otherwise possess consumer information through their provision of services directly to a person subject to this part, implementing and monitoring compliance with policies and procedures that protect against unauthorized or unintentional disposal of consumer information, and disposing of such information in accordance with examples (b)(1) and (2) of this section.

(5) For persons subject to the Gramm-Leach-Bliley Act, 15 U.S.C. 6081 *et seq.*, and the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 CFR part 314 (''Safeguards Rule''), incorporating the proper disposal of consumer information as required by this rule into the information security program required by the Safeguards Rule.

§ 682.4 Relation to other laws.

Nothing in the rule in this part shall be construed:

(a) To require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or

(b) To alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

§ 682.5 Effective date.

The rule in this part is effective on June 1, 2005.

PART 698—MODEL FORMS AND DISCLOSURES

Sec.
698.1 Authority and purpose.
698.2 Legal effect.
698.3 Definitions.
APPENDIX A TO PART 698—MODEL PRESCREEN OPT-OUT NOTICES.
APPENDIXES B–C TO PART 698 [RESERVED]
APPENDIX D TO PART 698—STANDARDIZED FORM FOR REQUESTING FREE FILE DISCLOSURE.
APPENDIX E TO PART 698—SUMMARY OF CONSUMER IDENTITY THEFT RIGHTS.
APPENDIX F TO PART 698—GENERAL SUMMARY OF CONSUMER RIGHTS.
APPENDIX G TO PART 698—NOTICE OF FURNISHER RESPONSIBILITIES.
APPENDIX H TO PART 698—NOTICE OF USER RESPONSIBILITIES.

AUTHORITY: 15 U.S.C. 1681g and 1681s; Pub. L. 108–159, sections 151, 153, 211(c) and (d), 213, and 311.

SOURCE: 69 FR 35500, June 24, 2004 unless otherwise noted.

§ 698.1 Authority and purpose.

(a) *Authority*. This part is issued by the Commission pursuant to the provisions of the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), as amended by the Consumer Credit Reporting Reform Act of 1996 (Title II, Subtitle D, Chapter 1, of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997), Public Law 104–208, 110 Stat. 3009–426

(Sept. 30, 1996), and the Fair and Accurate Credit Transactions Act of 2003, Public Law 108–159, 117 Stat. 1952 (Dec. 4, 2003).

(b) *Purpose*. The purpose of this part is to comply with sections 607(d), 609(c), 609(d), 612(a), and 615(d) of the Fair Credit Reporting Act, as amended by the Fair and Accurate Credit Transactions Act of 2003, and Section 211 of the Fair and Accurate Credit Transactions Act of 2003.

[69 FR 69784, Nov. 30, 2004, as amended at 70 FR 5032, Jan. 31, 2005]

§ 698.2 Legal effect.

These model forms and disclosures prescribed by the FTC do not constitute a trade regulation rule. The issuance of the model forms and disclosures set forth below carries out the directive in the statute that the FTC prescribe these forms and disclosures. Use or distribution of these model forms and disclosures will constitute compliance with any section or subsection of the FCRA requiring that such forms and disclosures be used by or supplied to any person.

[69 FR 69784, Nov. 30, 2004]

§ 698.3 Definitions.

As used in this part, unless otherwise provided:

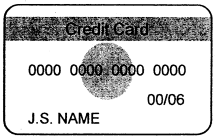
(a) *Substantially similar* means that all information in the Commission's prescribed model is included in the document that is distributed, and that the document distributed is formatted in a way consistent with the format prescribed by the Commission. The document that is distributed shall not include anything that interferes with, detracts from, or otherwise undermines the information contained in the Commission's prescribed model.

[69 FR 69784, Nov. 30, 2004]

APPENDIX A TO PART 698—MODEL PRESCREEN OPT-OUT NOTICES

In order to comply with part 642 of this title, the following model notices may be used:

(a) *English language model notice*—(1) *Short notice*.



Here's a Line About Credit

J.S. Name
12345 Friendly Street
City, ST 12345

Dear Ms. Name,

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a the last century, we saw how technology was changing the way people do things. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a the last century, we saw how technology was changing the way people do things.

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a the last century, we saw how technology was changing the way people do things.

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way peop. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit a smart kind of credit card.

So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way people. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card.

We saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology.

Sincerely,

John W. Doe
President, Credit Card Company

PFOR 00 MON
FIXED ABC

■

BALANCE TR
FOR 00 MONTHS

■

NO MONTHS FEE

■

INTERNET SECURITY
SECURITY

■

ONLINE FRAUD PRO
GUARANTEE

■

YOUR BALANCE
PAY YOUR BILL

■

FEE-FREE REWARDS
PROGRAM

You can choose to stop receiving "prescreened" offers of [credit or insurance] from this and other companies by calling toll-free [toll-free number]. See PRESCREEN & OPT-OUT NOTICE on other side [or other location] for more information about prescreened offers.

(2) *Long notice.*

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a the last century, we saw how technology was changing the way people do things.

HEADER

Percent Rate for	Other ABCs	Variable info material	Grace or repases Are placed here	Computing the balast	Annual Fee	Usual Place Finance Charge
Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card.	Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way.	Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card.	Back in the last century, we saw how technology was changing.	Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card.	Back long ago.	Back in the last century, we saw how technology.

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way.

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way.

Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way.

Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way.

TERMS AND CONDITIONS

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw y, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things.

Act Notice: the a smart kind of credit card. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw.

PRESCREEN & OPT-OUT NOTICE: This "prescreened" offer of [credit or insurance] is based on information in your credit report indicating that you meet certain criteria. This offer is not guaranteed if you do not meet our criteria [including providing acceptable property as collateral]. If you do not want to receive prescreened offers of [credit or insurance] from this and other companies, call the consumer reporting agencies [or name of consumer reporting agency] toll-free, [toll-free number]; or write: [consumer reporting agency name and mailing address].

Notice to Some Residents: te a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way.

(b) *Spanish language model notice*—(1) *Short notice.*

Aquí están líneas crédito

J.S. Nombre
1234 Calle Amistosa
Ciudad, ST 12345

Estimada Señora Nombre:

En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Sinceramente,

John W. Doe
Presidente, Compañía

PFOR 00 MON FIJO ABC

■

TRANSFERENCIA DE BALANCE POR MESES

■

SIN CUOTA MENSUAL

■

PAGO ELECTRÓNICO SEGURO

■

PROTECCIÓN CONTRA FRAUDE EN LÍNEA GARANTIZADO

■

SU BALANCE PAGA SU CUENTA

■

PROGRAMA DE RECOMPENSAS SIN CUENTA

Usted puede elegir no recibir más "ofertas de [crédito o seguro] pre-investigadas" de esta y otras compañías llamando sin cargos al [número sin cargo]. Ver la NOTIFICACIÓN DE PRE-INVESTIGACIÓN Y EXCLUSIÓN VOLUNTARIA al otro lado de esta página [o en otro lugar] para más información sobre ofertas pre-investigadas.

(2) *Long notice.*

En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente.

AQUÍ ESTÁN

Protección Contra Fraude	Programa de Recompensas	Su Balance Paga	Sin Cuota Mensual	Protección Contra Fraude	Recompensas Sin Cuenta	Sin Cuota Mensual
En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.	Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.	En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la gente hace las cosas. Así que cremos.	Así que creamos una tarjeta de crédito inteligente.	En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.	Así que cremos.	Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

TERMINOS Y CONDICIONA

En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

<u>NOTIFICACIÓN DE PRE-INVESTIGACIÓN Y EXCLUSIÓN VOLUNTARIA</u>: Esta oferta de [crédito o seguro] está basada en información contenida en su informe de crédito que indica que usted cumple con ciertos criterios [incluyendo la condición de tener propiedades aceptables como colateral]. Si usted no cumple con nuestros criterios, esta oferta no está garantizada. Si usted no desea recibir ofertas de [crédito o seguro] pre-investigadas de ésta y otras compañías, llame a las agencias de información del consumidor [o nombre de la agencia de información del consumidor] sin cargos, [número sin cargo]; o escriba a: [nombre de la agencia de información del consumidor y dirección de correo].

En el siglo pasado vimos como: la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

[70 FR 5033, Jan. 31, 2005]

APPENDIXES B–C TO PART 698 [RESERVED]

APPENDIX D TO PART 698—STANDARDIZED FORM FOR REQUESTING ANNUAL FILE DISCLOSURES.

REQUEST FOR FREE CREDIT REPORT

Note to Consumers: **You have the right to obtain a free copy of your credit report once every 12 months (also known as an "annual file disclosure"), from each of the nationwide consumer reporting agencies. Your report may contain information on where you work and live, the credit accounts that have been opened in your name, if you've paid your bills on time, and whether you have been sued, arrested, or have filed for bankruptcy. Businesses use this information in making decisions about whether to offer you credit, insurance, or employment, and on what terms.**

Use this form to request your credit report from any, or all, of the nationwide consumer reporting agencies.

The following information is required to process your request:

Your Full Name: _____

Your Street Address: _____

Your City, State & Zip Code: _____

Your Telephone Numbers (with area code): Day: _____
Evening: _____

Your Social Security number: _____ Your Date of Birth_____

Place a check next to each credit report you want.

_____ I want a credit report from each of the nationwide consumer reporting agencies

OR

_____ I want a credit report from:

_____ [name of nationwide consumer reporting agency]
_____ [name of nationwide consumer reporting agency]
_____ [name of nationwide consumer reporting agency]

Please check how you would like to receive your report. (Note: because of the need to accurately identify you before we send you your credit report, we may not be able to offer every delivery method to every consumer. We will try to honor your preference.)

_____ [available delivery method]
_____ [available delivery method]
_____ [available delivery method]

_____ Check here if, for security purposes, you want your copy of your credit report to include only the last four digits of your Social Security number (SSN), rather than your entire SSN.

For more information on obtaining your free credit report, visit [insert appropriate website address], call [insert appropriate telephone number], or write to [insert appropriate address].

Mail this form to:
[insert appropriate address]

Your report(s) will be sent within 15 days after we receive your request.

APPENDIX E TO PART 698—SUMMARY OF CONSUMER IDENTITY THEFT RIGHTS

The prescribed form for this summary is a disclosure that is substantially similar to the Commission's model summary with all information clearly and prominently displayed. A summary should accurately reflect changes to those items that may change over time (such as telephone numbers) to remain in compliance. Translations of this summary will be in compliance with the Commission's prescribed model, provided that the translation is accurate and that it is provided in a language used by the recipient consumer.

Para informacion en espanol, visite www.consumer.gov/idtheft o escribe a la FTC, Consumer Response Center, Room 130-B, 600 Pennsylvania Avenue, N.W. Washington, D.C., 20580.

Remedying the Effects of Identity Theft

You are receiving this information because you have notified a consumer reporting agency that you believe that you are a victim of identity theft. Identity theft occurs when someone uses your name, Social Security number, date of birth, or other identifying information, without authority, to commit fraud. For example, someone may have committed identity theft by using your personal information to open a credit card account or get a loan in your name. For more information, visit www.consumer.gov/idtheft or write to: FTC, Consumer Response Center, Room 130-B, 600 Pennsylvania Avenue, N.W. Washington, D.C., 20580.

The Fair Credit Reporting Act (FCRA) gives you specific rights when you are, or believe that you are, the victim of identity theft. Here is a brief summary of the rights designed to help you recover from identity theft.

1. **You have the right to ask that nationwide consumer reporting agencies place "fraud alerts" in your file** to let potential creditors and others know that you may be a victim of identity theft. A fraud alert can make it more difficult for someone to get credit in your name because it tells creditors to follow certain procedures to protect you. It also may delay your ability to obtain credit. You may place a fraud alert in your file by calling just one of the three nationwide consumer reporting agencies. As soon as that agency processes your fraud alert, it will notify the other two, which then also must place fraud alerts in your file.

   - Equifax: 1-800-XXX-XXXX; www.equifax.com
   - Experian: 1-800-XXX-XXXX; www.experian.com
   - TransUnion: 1-800-XXX-XXXX; www.transunion.com

   An initial fraud alert stays in your file for at least 90 days. An extended alert stays in your file for seven years. To place either of these alerts, a consumer reporting agency will require you to provide appropriate proof of your identity, which may include your Social Security number. If you ask for an extended alert, you will have to provide an *identity theft report.* An *identity theft report* includes a copy of a report you have filed with a federal, state, or local law enforcement agency, and additional information a consumer reporting agency may require you to submit. For more detailed information about the *identity theft report*, visit www.consumer.gov/idtheft.

2. **You have the right to free copies of the information in your file (your "file disclosure").** An initial fraud alert entitles you to a copy of all the information in your file at each of the three nationwide agencies, and an extended alert entitles you to two free file disclosures in a 12-month period following the placing of the alert. These additional disclosures may help you detect signs of fraud, for example, whether fraudulent accounts have been opened in your name or whether someone has reported a change in your address. Once a year, you also have the right to a free copy of the information in your file

at any consumer reporting agency, if you believe it has inaccurate information due to fraud, such as identity theft. You also have the ability to obtain additional free file disclosures under other provisions of the FCRA. See www.ftc.gov/credit.

3. **You have the right to obtain documents relating to fraudulent transactions made or accounts opened using your personal information.** A creditor or other business must give you copies of applications and other business records relating to transactions and accounts that resulted from the theft of your identity, if you ask for them in writing. A business may ask you for proof of your identity, a police report, and an affidavit before giving you the documents. It also may specify an address for you to send your request. Under certain circumstances, a business can refuse to provide you with these documents. See www.consumer.gov/idtheft.

4. **You have the right to obtain information from a debt collector.** If you ask, a debt collector must provide you with certain information about the debt you believe was incurred in your name by an identity thief – like the name of the creditor and the amount of the debt.

5. **If you believe information in your file results from identity theft, you have the right to ask that a consumer reporting agency block that information from your file.** An identity thief may run up bills in your name and not pay them. Information about the unpaid bills may appear on your consumer report. Should you decide to ask a consumer reporting agency to block the reporting of this information, you must identify the information to block, and provide the consumer reporting agency with proof of your identity and a copy of your *identity theft report.* The consumer reporting agency can refuse or cancel your request for a block if, for example, you don't provide the necessary documentation, or where the block results from an error or a material misrepresentation of fact made by you. If the agency declines or rescinds the block, it must notify you. Once a debt resulting from identity theft has been blocked, a person or business with notice of the block may not sell, transfer, or place the debt for collection.

6. **You also may prevent businesses from reporting information about you to consumer reporting agencies if you believe the information is a result of identity theft.** To do so, you must send your request to the address specified by the business that reports the information to the consumer reporting agency. The business will expect you to identify what information you do not want reported and to provide an *identity theft report.*

To learn more about identity theft and how to deal with its consequences, visit www.consumer.gov/idtheft, or write to the FTC. You may have additional rights under state law. For more information, contact your local consumer protection agency or your state attorney general.

In addition to the new rights and procedures to help consumers deal with the effects of identity theft, the FCRA has many other important consumer protections. They are described in more detail at www.ftc.gov/credit.

[69 FR 69784, Nov. 30, 2004]

APPENDIX F TO PART 698—GENERAL SUMMARY OF CONSUMER RIGHTS

The prescribed form for this summary is a disclosure that is substantially similar to the Commission's model summary with all information clearly and prominently displayed. The list of federal regulators that is included in the Commission's prescribed summary may be provided separately so long as this is done in a clear and conspicuous way. A summary should accurately reflect changes to those items that may change over time (*e.g.*, dollar amounts, or telephone numbers and addresses of federal agencies) to remain in compliance. Translations of this summary will be in compliance with the Commission's prescribed model, provided

that the translation is accurate and that it is provided in a language used by the recipient consumer.

Para informacion en espanol, visite www.ftc.gov/credit o escribe a la FTC Consumer Response Center, Room 130-A 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. **For more information, including information about additional rights, go to www.ftc.gov/credit or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, D.C. 20580.**

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report or another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.
- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your "file disclosure"). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identify theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance;
  - you are unemployed but expect to apply for employment within 60 days.

  In addition, by September 2005 all consumers will be entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.ftc.gov/credit for additional information.
- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.
- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See www.ftc.gov/credit for an explanation of dispute procedures.
- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
- **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need -- usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
- **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to www.ftc.gov/credit.
- **You may limit "prescreened" offers of credit and insurance you get based on information in your credit report.** Unsolicited "prescreened" offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt-out with the nationwide credit bureaus at 1-800-XXX-XXXX.
- **You may seek damages from violators.** If a consumer reporting agency, or, in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
- **Identity theft victims and active duty military personnel have additional rights.** For more information, visit www.ftc.gov/credit.

States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. Federal enforcers are:

TYPE OF BUSINESS:	CONTACT:
Consumer reporting agencies, creditors and others not listed below	Federal Trade Commission: Consumer Response Center - FCRA Washington, DC 20580 1-877-382-4357
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 202-452-3693
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Complaints Washington, DC 20552 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 703-519-4600
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Consumer Response Center, 2345 Grand Avenue, Suite 100 Kansas City, Missouri 64108-2638 1-877-275-3342
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation , Office of Financial Management Washington, DC 20590 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 202-720-7051

[69 FR 69787, Nov. 30, 2004]

APPENDIX G TO PART 698—NOTICE OF FURNISHER RESPONSIBILITIES

The prescribed form for this disclosure is a separate document that is substantially similar to the Commission's model notice with all information clearly and prominently displayed. Consumer reporting agencies may limit the disclosure to only those items that they know are relevant to the furnisher that will receive the notice.

All furnishers subject to the Federal Trade Commission's jurisdiction must comply with all applicable regulations, including regulations promulgated after this notice was prescribed in 2004. Information about applicable regulations currently in effect can be found at the Commission's Web site, www.ftc.gov/credit. Furnishers who are not subject to the Commission's jurisdiction should consult with their regulators to find any relevant regulations.

NOTICE TO FURNISHERS OF INFORMATION:
OBLIGATIONS OF FURNISHERS UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, imposes responsibilities on all persons who furnish information to consumer reporting agencies (CRAs). These responsibilities are found in Section 623 of the FCRA, 15 U.S.C. 1681s-2. State law may impose additional requirements on furnishers. All furnishers of information to CRAs should become familiar with the applicable laws and may want to consult with their counsel to ensure that they are in compliance. The text of the FCRA is set forth in full at the Website of the Federal Trade Commission (FTC): www.ftc.gov/credit. A list of the sections of the FCRA cross-referenced to the U.S. Code is at the end of this document.

Section 623 imposes the following duties upon furnishers:

Accuracy Guidelines

The banking and credit union regulators and the FTC will promulgate guidelines and regulations dealing with the accuracy of information provided to CRAs by furnishers. The regulations and guidelines issued by the FTC will be available at www.ftc.gov/credit when they are issued. Section 623(e).

General Prohibition on Reporting Inaccurate Information

The FCRA prohibits information furnishers from providing information to a CRA that they know or have reasonable cause to believe is inaccurate. However, the furnisher is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the furnisher that certain information is inaccurate. Sections 623(a)(1)(A) and (a)(1)(C).

Duty to Correct and Update Information

If at any time a person who regularly and in the ordinary course of business furnishes information to one or more CRAs determines that the information provided is not complete or accurate, the furnisher must promptly provide complete and accurate information to the CRA. In addition, the furnisher must notify all CRAs that received the information of any corrections, and must thereafter report only the complete and accurate information. Section 623(a)(2).

Duties After Notice of Dispute from Consumer

If a consumer notifies a furnisher, at an address specified for the furnisher for such notices, that specific information is inaccurate, and the information is, in fact, inaccurate, the furnisher must thereafter report the correct information to CRAs. Section 623(a)(1)(B).

If a consumer notifies a furnisher that the consumer disputes the completeness or accuracy of any information reported by the furnisher, the furnisher may not subsequently report that information to a CRA without providing notice of the dispute. Section 623(a)(3).

The federal banking and credit union regulators and the FTC will issue regulations that will identify when an information furnisher must investigate a dispute made directly to the furnisher by a consumer. Once these regulations are issued, furnishers must comply with them and complete an investigation within 30 days (or 45 days, if the consumer later provides relevant additional information) unless the dispute is frivolous or irrelevant or comes from a "credit repair organization." The FTC regulations will be available at www.ftc.gov/credit. Section 623(a)(8).

Duties After Notice of Dispute from Consumer Reporting Agency

If a CRA notifies a furnisher that a consumer disputes the completeness or accuracy of information provided by the furnisher, the furnisher has a duty to follow certain procedures. The furnisher must:

- Conduct an investigation and review all relevant information provided by the CRA, including information given to the CRA by the consumer. Sections 623(b)(1)(A) and (b)(1)(B).
- Report the results to the CRA that referred the dispute, and, if the investigation establishes that the information was, in fact, incomplete or inaccurate, report the results to all CRAs to which the furnisher provided the information that compile and maintain files on a nationwide basis. Section 623(b)(1)(C) and (b)(1)(D).
- Complete the above steps within 30 days from the date the CRA receives the dispute (or 45 days, if the consumer later provides relevant additional information to the CRA). Section 623(b)(2).
- Promptly modify or delete the information, or block its reporting. Section 623(b)(1)(E).

Duty to Report Voluntary Closing of Credit Accounts

If a consumer voluntarily closes a credit account, any person who regularly and in the ordinary course of business furnishes information to one or more CRAs must report this fact when it provides information to CRAs for the time period in which the account was closed. Section 623(a)(4).

Duty to Report Dates of Delinquencies

If a furnisher reports information concerning a delinquent account placed for collection, charged to profit or loss, or subject to any similar action, the furnisher must, within 90 days after reporting the information, provide the CRA with the month and the year of the commencement

of the delinquency that immediately preceded the action, so that the agency will know how long to keep the information in the consumer's file. Section 623(a)(5).

Any person, such as a debt collector, that has acquired or is responsible for collecting delinquent accounts and that reports information to CRAs may comply with the requirements of Section 623(a)(5) (until there is a consumer dispute) by reporting the same delinquency date previously reported by the creditor. If the creditor did not report this date, they may comply with the FCRA by establishing reasonable procedures to obtain and report delinquency dates, or, if a delinquency date cannot be reasonably obtained, by following reasonable procedures to ensure that the date reported precedes the date when the account was placed for collection, charged to profit or loss, or subjected to any similar action. Section 623(a)(5).

Duties of Financial Institutions When Reporting Negative Information

Financial institutions that furnish information to "nationwide" consumer reporting agencies, as defined in Section 603(p), must notify consumers in writing if they may furnish or have furnished negative information to a CRA. Section 623(a)(7). The Federal Reserve Board has prescribed model disclosures, 12 CFR Part 222, App. B.

Duties When Furnishing Medical Information

A furnisher whose primary business is providing medical services, products, or devices (and such furnisher's agents or assignees) is a medical information furnisher for the purposes of the FCRA and must notify all CRAs to which it reports of this fact. Section 623(a)(9). This notice will enable CRAs to comply with their duties under Section 604(g) when reporting medical information.

Duties When ID Theft Occurs

All furnishers must have in place reasonable procedures to respond to notifications from CRAs that information furnished is the result of identity theft, and to prevent refurnishing the information in the future. A furnisher may not furnish information that a consumer has identified as resulting from identity theft unless the furnisher subsequently knows or is informed by the consumer that the information is correct. Section 623(a)(6). If a furnisher learns that it has furnished inaccurate information due to identity theft, it must notify each consumer reporting agency of the correct information and must thereafter report only complete and accurate information. Section 623(a)(2). When any furnisher of information is notified pursuant to the procedures set forth in Section 605B that a debt has resulted from identity theft, the furnisher may not sell, transfer, or place for collection the debt except in certain limited circumstances. Section 615(f).

The FTC's Web site, www.ftc.gov/credit, has more information about the FCRA, including publications for businesses and the full text of the FCRA.

Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1681 et seq.:

Section 602	15 U.S.C. 1681	Section 615	15 U.S.C. 1681m
Section 603	15 U.S.C. 1681a	Section 616	15 U.S.C. 1681n
Section 604	15 U.S.C. 1681b	Section 617	15 U.S.C. 1681o
Section 605	15 U.S.C. 1681c	Section 618	15 U.S.C. 1681p
Section 605A	15 U.S.C. 1681cA	Section 619	15 U.S.C. 1681q
Section 605B	15 U.S.C. 1681cB	Section 620	15 U.S.C. 1681r
Section 606	15 U.S.C. 1681d	Section 621	15 U.S.C. 1681s
Section 607	15 U.S.C. 1681e	Section 622	15 U.S.C. 1681s-1
Section 608	15 U.S.C. 1681f	Section 623	15 U.S.C. 1681s-2
Section 609	15 U.S.C. 1681g	Section 624	15 U.S.C. 1681t
Section 610	15 U.S.C. 1681h	Section 625	15 U.S.C. 1681u
Section 611	15 U.S.C. 1681i	Section 626	15 U.S.C. 1681v
Section 612	15 U.S.C. 1681j	Section 627	15 U.S.C. 1681w
Section 613	15 U.S.C. 1681k	Section 628	15 U.S.C. 1681x
Section 614	15 U.S.C. 1681l	Section 629	15 U.S.C. 1681y

[69 FR 69790, Nov. 30, 2004]

APPENDIX H TO PART 698—NOTICE OF USER RESPONSIBILITIES

The prescribed form for this disclosure is a separate document that is substantially similar to the Commission's notice with all information clearly and prominently displayed. Consumer reporting agencies may limit the disclosure to only those items that they know are relevant to the user that will receive the notice.

All users subject to the Federal Trade Commission's jurisdiction must comply with all applicable regulations, including regulations promulgated after this notice was prescribed in 2004. Information about applicable regulations currently in effect can be found at the Commission's Web site, www.ftc.gov/credit. Persons not subject to the Commission's jurisdiction should consult with their regulators to find any relevant regulations.

NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA

The Fair Credit Reporting Act (FCRA),15 U.S.C. 1681-1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Federal Trade Commission's Website at www.ftc.gov/credit. At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the Commission's Web site. **Users must consult the relevant provisions of the FCRA for details about their obligations under the FCRA.**

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS

A. Users Must Have a Permissible Purpose

Congress has limited the use of consumer reports to protect consumers' privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are:

- As ordered by a court or a federal grand jury subpoena. Section 604(a)(1)
- As instructed by the consumer in writing. Section 604(a)(2)
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer's account. Section 604(a)(3)(A)
- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. Sections 604(a)(3)(B) and 604(b)

- For the underwriting of insurance as a result of an application from a consumer. Section 604(a)(3)(C)

- When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. Section 604(a)(3)(F)(i)

- To review a consumer's account to determine whether the consumer continues to meet the terms of the account. Section 604(a)(3)(F)(ii)

- To determine a consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status. Section 604(a)(3)(D)

- For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. Section 604(a)(3)(E)

- For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. Sections 604(a)(4) and 604(a)(5)

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making "prescreened" unsolicited offers of credit or insurance. Section 604(c). The particular obligations of users of "prescreened" information are described in Section VII below.

B. Users Must Provide Certifications

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

C. Users Must Notify Consumers When Adverse Actions Are Taken

The term "adverse action" is defined very broadly by Section 603. "Adverse actions" include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA – such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counteroffer that is accepted by the consumer.

1. Adverse Actions Based on Information Obtained From a CRA

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.
- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
- A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer makes a request within 60 days.
- A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer's written request.

3. Adverse Actions Based on Information Obtained From Affiliates

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C.1 above.

D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files

When a consumer has placed a fraud alert, including one relating to identity theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit plan and the issuance of additional credit cards. For initial fraud alerts and active duty alerts, the user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer's alert.

E. Users Have Obligations When Notified of an Address Discrepancy

Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports when the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer's file. When this occurs, users must comply with regulations specifying the procedures to be followed, which will be issued by the Federal Trade Commission and the banking and credit union regulators. The Federal Trade Commission's regulations will be available at www.ftc.gov/credit.

F. Users Have Obligations When Disposing of Records

Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. The Federal Trade Commission, the Securities and Exchange Commission, and the banking and credit union regulators have issued regulations covering disposal. The Federal Trade Commission's regulations may be found at www.ftc.gov/credit.

II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulations to be jointly prescribed by the Federal Trade Commission and the Federal Reserve Board.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores. These persons must

provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES

A. Employment Other Than in the Trucking Industry

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.
- **Before** taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights. (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. Section 615(b)(2)

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

B. Employment in the Trucking Industry

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking

company by contacting the company.

IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)

- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.

- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the

medical provider). If the information is to be used for an insurance transaction, the consumer must give consent to the user of the report or the information must be coded. If the report is to be used for employment purposes – or in connection with a credit transaction (except as provided in regulations issued by the banking and credit union regulators) – the consumer must provide specific written consent and the medical information must be relevant. Any user who receives medical information shall not disclose the information to any other person (except where necessary to carry out the purpose for which the information was disclosed, or as permitted by statute, regulation, or order).

VII. OBLIGATIONS OF USERS OF "PRESCREENED" LISTS

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of credit or insurance under certain circumstances. Sections 603(l), 604(c), 604(e), and 615(d). This practice is known as "prescreening" and typically involves obtaining from a CRA a list of consumers who meet certain preestablished criteria. If any person intends to use prescreened lists, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and to grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer's CRA file was used in connection with the transaction.
- The consumer received the offer because he or she satisfied the criteria for credit worthiness or insurability used to screen for the offer.
- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.
- The consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. The statement must include the address and toll-free telephone number of the appropriate notification system.

In addition, once the Federal Trade Commission by rule has established the format, type size, and manner of the disclosure required by Section 615(d), users must be in compliance with the rule. The FTC's regulations will be at www.ftc.gov/credit.

VIII. OBLIGATIONS OF RESELLERS

A. Disclosure and Certification Requirements

Section 607(e) requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.
- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.
- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain:
  (1) the identity of all end-users;
  (2) certifications from all users of each purpose for which reports will be used; and
  (3) certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller. Resellers must make reasonable efforts to verify this information before selling the report.

B. Reinvestigations by Resellers

Under Section 611(f), if a consumer disputes the accuracy or completeness of information in a report prepared by a reseller, the reseller must determine whether this is a result of an action or omission on its part and, if so, correct or delete the information. If not, the reseller must send the dispute to the source CRA for reinvestigation. When any CRA notifies the reseller of the results of an investigation, the reseller must immediately convey the information to the consumer.

C. Fraud Alerts and Resellers

Section 605A(f) requires resellers who receive fraud alerts or active duty alerts from another consumer reporting agency to include these in their reports.

IX. LIABILITY FOR VIOLATIONS OF THE FCRA

Failure to comply with the FCRA can result in state government or federal government enforcement actions, as well as private lawsuits. Sections 616, 617, and 621. In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. Section 619.

The FTC's Web site, www.ftc.gov/credit, has more information about the FCRA including publications for businesses and the full text of the FCRA.

Citations for FCRA sections in the U.S. Code, 15 U.S.C. § 1681 et seq.:

Section 602	15 U.S.C. 1681
Section 603	15 U.S.C. 1681a
Section 604	15 U.S.C. 1681b
Section 605	15 U.S.C. 1681c
Section 605A	15 U.S.C. 1681cA
Section 605B	15 U.S.C. 1681cB
Section 606	15 U.S.C. 1681d
Section 607	15 U.S.C. 1681e
Section 608	15 U.S.C. 1681f
Section 609	15 U.S.C. 1681g
Section 610	15 U.S.C. 1681h
Section 611	15 U.S.C. 1681i
Section 612	15 U.S.C. 1681j
Section 613	15 U.S.C. 1681k
Section 614	15 U.S.C. 1681*l*
Section 615	15 U.S.C. 1681m
Section 616	15 U.S.C. 1681n
Section 617	15 U.S.C. 1681o
Section 618	15 U.S.C. 1681p
Section 619	15 U.S.C. 1681q
Section 620	15 U.S.C. 1681r
Section 621	15 U.S.C. 1681s
Section 622	15 U.S.C. 1681s-1
Section 623	15 U.S.C. 1681s-2
Section 624	15 U.S.C. 1681t
Section 625	15 U.S.C. 1681u
Section 626	15 U.S.C. 1681v
Section 627	15 U.S.C. 1681w
Section 628	15 U.S.C. 1681x
Section 629	15 U.S.C. 1681y

[69 FR 69795, Nov. 30, 2004]