

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

## Federal Trade Commission

## § 614.1

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]