

Federal Trade Commission

§ 642.1

SOURCE: 74 FR 22644, May 14, 2009, unless otherwise noted.

§ 641.1 Duties of users of consumer reports regarding address discrepancies.

(a) *Scope.* This section applies to users of consumer reports that are subject to administrative enforcement of the FCRA by the Federal Trade Commission pursuant to 15 U.S.C. 1681s(a)(1) (users).

(b) *Definition.* For purposes of this section, a *notice of address discrepancy* means a notice sent to a user by a consumer reporting agency described in 15 U.S.C. 1681a(p) pursuant to 15 U.S.C. 1681c(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

(c) *Reasonable belief*—(1) *Requirement to form a reasonable belief.* A user must develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report, when the user receives a notice of address discrepancy.

(2) *Examples of reasonable policies and procedures.* (i) Comparing the information in the consumer report provided by the consumer reporting agency with information the user:

(A) Obtains and uses to verify the consumer's identity in accordance with the requirements of the Customer Identification Program (CIP) rules implementing 31 U.S.C. 5318(1) (31 CFR 103.121);

(B) Maintains in its own records, such as applications, change of address notifications, other customer account records, or retained CIP documentation; or

(C) Obtains from third-party sources; or

(ii) Verifying the information in the consumer report provided by the consumer reporting agency with the consumer.

(d) *Consumer's address*—(1) *Requirement to furnish consumer's address to a consumer reporting agency.* A user must develop and implement reasonable policies and procedures for furnishing an address for the consumer that the user

has reasonably confirmed is accurate to the consumer reporting agency described in 15 U.S.C. 1681a(p) from whom it received the notice of address discrepancy when the user:

(i) Can form a reasonable belief that the consumer report relates to the consumer about whom the user requested the report;

(ii) Establishes a continuing relationship with the consumer; and

(iii) Regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of address discrepancy relating to the consumer was obtained.

(2) *Examples of confirmation methods.* The user may reasonably confirm an address is accurate by:

(i) Verifying the address with the consumer about whom it has requested the report;

(ii) Reviewing its own records to verify the address of the consumer;

(iii) Verifying the address through third-party sources; or

(iv) Using other reasonable means.

(3) *Timing.* The policies and procedures developed in accordance with paragraph (d)(1) of this section must provide that the user will furnish the consumer's address that the user has reasonably confirmed is accurate to the consumer reporting agency described in 15 U.S.C. 1681a(p) as part of the information it regularly furnishes for the reporting period in which it establishes a relationship with the consumer.

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

§ 642.2

16 CFR Ch. I (1–1–12 Edition)

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 660—DUTIES OF FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES

Sec.

660.1 Scope.

660.2 Definitions.

660.3 Reasonable policies and procedures concerning the accuracy and integrity of furnisher information.

660.4 Direct disputes.

APPENDIX A TO PART 660—INTERAGENCY GUIDELINES CONCERNING THE ACCURACY AND INTEGRITY OF INFORMATION FURNISHED TO CONSUMER REPORTING AGENCIES

AUTHORITY: 15 U.S.C. 1681s-2(a)(8) and 1681s-2(e); Sec. 312, Pub. L. 108-159, 117 Stat. 1989.

SOURCE: 74 FR 31525, July 1, 2009, unless otherwise noted.

§ 660.1 Scope.

This part applies to furnishers of information to consumer reporting agencies that are subject to administrative enforcement of the FCRA by the Federal Trade Commission pursuant to 15

U.S.C. 1681s(a)(1) (referred to as “furnishers”).

§ 660.2 Definitions.

For purposes of this part and appendix A of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

- (1) Reflects the terms of and liability for the account or other relationship;
- (2) Reflects the consumer’s performance and other conduct with respect to the account or other relationship; and
- (3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

- (1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the Fair Credit Reporting Act;
- (2) Is acting as a “consumer reporting agency” as defined in section 603(f) of the Fair Credit Reporting Act;
- (3) Is a consumer to whom the furnished information pertains; or
- (4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the consumer, and who provides information about the consumer’s character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Identity theft* has the same meaning as in 16 CFR 603.2(a).

(e) *Integrity* means that information that a furnisher provides to a consumer