II. Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011, including the Board's rulemaking authority over the privacy provisions of the GLB Act. The Bureau issued the Bureau Interim Final Rule to implement the privacy provisions of the GLB Act in connection with the transfer of this rulemaking authority to the Bureau. All of the entities formerly subject to the Board's Regulation P are covered by the Bureau Interim Final Rule. Consequently, the Board's repeal of the Board's Regulation P, 12 CFR part 216, will not have any effect on entities that were formerly subject to the Board's rule.

2. *Summary of issues raised by comments in response to the initial regulatory flexibility analysis.* The Board did not receive any comments on the initial regulatory flexibility analysis.

3. *Small entities affected by the final rule.* The final rule repeals the Board's Regulation P, 12 CFR part 216, because the Board no longer has rulewriting authority for the provisions of the GLB Act that were implemented in this regulation. All of the entities previously subject to the Board's Regulation P are now subject to the Bureau Interim Final Rule. Consequently, the repeal would not affect any entity, including any small entity.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule repeals the Board's Regulation P, 12 CFR part 216, and would therefore not impose any recordkeeping, reporting, or compliance requirements on any entities. Existing requirements remain the same under the Bureau Interim Final Rule.

5. *Significant alternatives to the final revisions.* Because the repeal of the Board's Regulation P (12 CFR part 216) will have no impact, there are no significant alternatives that would further minimize the economic impact of the final rule on small entities.

III. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 216

Banks, banking, Consumer protection, Foreign banking, Holding companies, Privacy, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, based on the transfer of authority under 12 U.S.C. 5581, the Board removes and reserves Regulation P, 12 CFR part 216 as follows:

PART 216—[REMOVED AND RESERVED]

By order of the Board of Governors of the Federal Reserve System, May 22, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–12357 Filed 5–28–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 222

[Docket No. R–1484]

RIN 7100 AE14

Identity Theft Red Flags (Regulation V)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its rule on identity theft ''red flags'' (''Red Flags rule''), which implements section 615(e) of the Fair Credit Reporting Act (FCRA). The Red Flag Program Clarification Act of 2010 (the Clarification Act) added a definition of ''creditor'' in FCRA section 615(e) that is specific to section 615(e). Accordingly, the final rule amends the definition of ''creditor'' in the Red Flags rule to reflect the definition of that term as added by the Clarification Act. The final rule also updates a cross-reference in the Red Flags rule to reflect a statutory change in rulemaking authority.

DATES: The final rule is effective June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Mandie K. Aubrey, Counsel, Division of Consumer and Community Affairs, at (202) 452–3667, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

On November 9, 2007, the Board of Governors of the Federal Reserve System (Board), along with the other banking agencies,[1] National Credit Union Administration (NCUA), and the Federal Trade Commission (FTC) (collectively, the ''Agencies''), published final rules and guidelines on identity theft ''red flags'' (''Red Flags rule'') to implement section 615(e) of the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681m(e)).[2] The Red Flags rule requires each financial institution and creditor that holds any consumer account, or other account for which there is a reasonably foreseeable risk of identity theft, to develop and implement an identity theft prevention program in connection with new and existing accounts. The program must include reasonable policies and procedures for detecting, preventing, and mitigating identity theft. The Agencies also issued guidelines to assist financial institutions and creditors in developing and implementing a program, including a supplement that provides examples of red flags.

The Red Flags rule, implemented in the Board's Regulation V, Subpart J, defines the terms ''credit'' and ''creditor'' by cross-reference to FCRA section 603(r)(5). 15 U.S.C. 1681a(r)(5). Section 603(r)(5) defines the terms ''credit'' and ''creditor'' by cross-reference to section 702 of the Equal Credit Opportunity Act (ECOA). ECOA section 702 defines ''creditor'' as ''any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.'' 15 U.S.C. 1691a(e). The ECOA defines ''credit'' as ''the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer

[1] The other banking agencies included the Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation; and Office of Thrift Supervision. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) added the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) to the list of agencies with rulemaking and enforcement authority under the Fair Credit Reporting Act with respect to the Red Flags rule. Public Law 111–203, 124 Stat. 1376 (2010).

[2] 72 FR 63718 (Nov. 9, 2007).

payment therefor.'' 15 U.S.C. 1691a(d). Thus, the FCRA's red flags provisions have been broadly applied to banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. 12 CFR 222.90(b)(5).

The scope of the Board's Red Flags rule is set forth in 12 CFR 222.90(a), which states that the Board's rule applies to financial institutions and creditors that are state member banks (other than national banks) and their respective operating subsidiaries, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act. Financial institutions and creditors that are not covered by the Board's rule are covered by substantially identical rules issued by other federal agencies.

II. The Red Flag Program Clarification Act of 2010

On December 18, 2010, Congress enacted the Red Flag Program Clarification Act of 2010 (the Clarification Act).[3] The Clarification Act amended section 615(e) of the FCRA (15 U.S.C. 1681m(e)) by adding a definition of the term ''creditor'' that is specific to section 615(e). The Clarification Act continues to define creditor by cross-reference to the ECOA's definition of creditor, but limits the application of the red flags provisions of the FCRA to only those creditors that regularly and in the ordinary course of business: (a) Obtain or use consumer reports, directly or indirectly, in connection with a credit transaction; (b) furnish information to consumer reporting agencies, as described in FCRA section 623, in connection with a credit transaction; or (c) advance funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person. 15 U.S.C. 1681m(e)(4)(A).

The Clarification Act's revised definition excludes, however, those creditors that advance funds on behalf of a person for expenses incidental to a service provided by the creditor to that person. 15 U.S.C. 1681m(e)(4)(B). The legislative intent of narrowing the definition of ''creditor'' in the Red Flags rule was to exclude from coverage those persons that sell a product or service for which the consumer can pay later, such as lawyers and doctors.[4]

The Clarification Act also grants authority to the Board and the other agencies to determine, through a rulemaking, whether there are other creditors that offer or maintain accounts that are subject to a reasonably foreseeable risk of identity theft that should be subject to the Red Flags rule. 15 U.S.C. 1681m(e)(4)(C). The Board is not using its discretionary rulemaking authority at this time to extend the application of its Red Flags rule to additional creditors.

III. The Board's Proposed Revisions to Regulation V

In February 2014, the Board proposed to amend the definition of ''creditor'' in Regulation V (12 CFR 222.90) to conform the rule to the definition of ''creditor'' in the FCRA as amended by the Clarification Act (Proposed Rule).[5] The Board also proposed to update a citation in Supplement A to Appendix J of Regulation V in light of the transfer of rulemaking authority to the Consumer Financial Protection Bureau (CFPB). The Board received five comments on the Proposed Rule.

IV. The Final Rule

As discussed above, the Board proposed to amend the definition of ''creditor'' in § 222.90(b)(5) to cross-reference the limited definition of creditor in section 615(e) of the FCRA, which is specific to the statute's red flags provisions. Accordingly, proposed § 222.90(b)(5) provided that ''creditor has the same meaning as in 15 U.S.C. 1681m(e)(4).'' Commenters unanimously supported the Board's proposal to amend the definition, and the Board is adopting the proposed changes in the final rule.

Under the Clarification Act and the final rule, creditors that do not regularly and in the ordinary course of business: (a) Obtain or use consumer reports in connection with a credit transaction; (b) furnish information to consumer reporting agencies in connection with a credit transaction; or (c) advance funds to or on behalf of a person, are no longer subject to the identity theft red flags requirements. However, the Red Flags rule still covers all financial institutions, regardless of whether they meet the revised definition of creditor.[6] As a result, the revised definition does not affect the scope of the Board's rules, which only apply to state member banks and other financial institutions.

Commenters also supported the proposal to revise Supplement A to Appendix J of Regulation V, which included a cross-reference to the Board's definition of a ''notice of address discrepancy'' in Regulation V (12 CFR 222.82(b)). Because the Board's rulemaking authority for the notice of address discrepancy provisions of the FCRA (15 U.S.C. 1681c(h)) transferred to the CFPB under the Dodd-Frank Act, the Board proposed to revise the citation in Appendix J so that it cross-references the CFPB's definition of a ''notice of address discrepancy'' in the CFPB's Regulation V (12 CFR 1022.82(b)).[7] The Board is updating the citation as proposed.

One commenter suggested that the Board make further amendments to Regulation V to repeal provisions for which the rulemaking authority was not retained by the Board after the transfer of authority to the CFPB under the Dodd-Frank Act. The Board intends to make further revisions to Regulation V to reflect changes in its rulemaking authority at a later date.

V. Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* As noted above, the Clarification Act amended the definition of ''creditor'' in the FCRA for purposes of the red flags provisions. The Board is amending the definition of ''creditor'' in its Red Flags rule to reflect the revised definition of that term in the Clarification Act. As also noted above, the Board is updating a cross-reference in the Red Flags rule to reflect the CFPB's rulemaking authority for the

[3] Public Law 111–319, 124 Stat. 3457 (Dec. 18, 2010).

[4] 156 Cong. Rec. S8289 (daily ed. Nov. 30, 2010) (statement of Sen. Dodd).

[5] 79 FR 9645 (Feb. 20, 2014).

[6] The Board consulted and coordinated with the other banking agencies, the FTC, the NCUA, the CFTC, and the SEC with respect to the final rule. The FTC issued an interim final rule and the OCC issued a final rule amending the definition of ''creditor'' in their respective Red Flags rules, consistent with the revised definition in the Clarification Act. 77 FR 72712 (Dec. 6, 2012) (FTC) and 79 FR 28393 (May 16, 2014) (OCC). The CFTC and SEC jointly issued final Red Flags rules and guidelines reflecting the FCRA definition of ''creditor'' as amended by the Clarification Act. 78 FR 23637 (Apr. 19, 2013). The Board understands that the FDIC and the NCUA will act separately with respect to any necessary updates to each agency's Red Flags rule.

[7] The Board notes that there is no substantive difference between the Board's definition of a ''notice of address discrepancy'' and the CFPB's definition.

notice of address discrepancy provisions in the FCRA.

2. *Summary of issues raised by comments in response to the initial regulatory flexibility analysis.* The Board did not receive any comments on the initial regulatory flexibility analysis.

3. *Small entities affected by the final rule.* The final rule amends the definition of ''creditor'' in the Board's Regulation V to conform to the revised definition of that term in the Clarification Act. The definition continues to refer to the FCRA definition of ''creditor,'' which references the ECOA definition of ''creditor,'' but limits the application of the red flags provisions to only those creditors that regularly and in the ordinary course of business: (a) Obtain or use consumer reports in connection with a credit transaction; (b) furnish information to consumer reporting agencies in connection with a credit transaction; or (c) advance funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person. 15 U.S.C. 1681m(e)(4)(A). However, small entities that are financial institutions are still subject to the requirements, regardless of whether they meet the revised definition of creditor. Consequently, the revisions do not affect the scope of the Board's rules, which only apply to state member banks and other financial institutions, so no small entities are affected.

The final rule also updates a cross-reference in the Red Flags rule to reflect the CFPB's rulemaking authority for the notice of address discrepancy provisions in the FCRA. This revision has no effect on small entities because there is no substantive difference between the Board's definition of a ''notice of address discrepancy'' and the CFPB's definition.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule does not impose any new recordkeeping, reporting, or compliance requirements on small entities. Small entities that no longer meet the narrower definition of ''creditor'' would not have to comply with the requirements of the Red Flags rule. However, small entity financial institutions would still be required to comply with the Red Flags rule, regardless of whether they meet the revised definition of creditor. Thus, the revisions do not affect the scope of the Board's rules, which only apply to state member banks and other financial institutions. In addition, the updated cross-reference in the final rule that reflects the CFPB's rulemaking authority for the notice of address discrepancy provisions in the FCRA is not a substantive change.

5. *Significant alternatives to the final revisions.* Because the amendments in the final rule will have no impact, there are no significant alternatives that would further minimize the economic impact of the final rule on small entities.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR Part 1320, Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget (OMB). The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 222

Banks, banking, Consumer protection, Safety and soundness, and State member banks.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends Regulation V, 12 CFR part 222, as set forth below:

PART 222—FAIR CREDIT REPORTING (REGULATION V)

■ 1. The authority citation for part 222 continues to read as follows:

Authority: 15 U.S.C. 1681b, 1681c, 1681m and 1681s; Secs. 3, 214, and 216, Pub. L. 108–159, 117 Stat. 1952.

■ 2. Amend § 222.90 by revising paragraph (b)(5) to read as follows:

§ 222.90 Duties regarding the detection, prevention, and mitigation of identity theft.

* * * * *

(b) * * *

(5) *Creditor* has the same meaning as in 15 U.S.C. 1681m(e)(4).

* * * * *

■ 3. Amend Supplement A to Appendix J by revising example 3. to read as follows:

Appendix J to Part 222—Interagency Guidelines on Identity Theft Detection, Prevention, and Mitigation

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Supplement A to Appendix J

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3. A consumer reporting agency provides a notice of address discrepancy, as defined in 12 CFR 1022.82(b).

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 22, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–12358 Filed 5–28–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Docket No. R–1482]

RIN 7100 AE12

Truth in Savings (Regulation DD)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is repealing its Regulation DD, 12 CFR part 230, which was issued to implement the Truth in Saving Act (TISA). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws, including TISA, from the Board to the Bureau of Consumer Financial Protection (Bureau). In December 2011, the Bureau published an interim final rule establishing its own Regulation DD to implement TISA (Bureau Interim Final Rule). The Bureau Interim Final Rule substantially duplicates the Board's Regulation DD.

Under section 1029 of the Dodd-Frank Act, the Board retains authority to issue rules for certain motor vehicle dealers that offer consumer financial services and are not subject to the Bureau's regulatory authority. The Board is not aware of any entities that are motor vehicle dealers engaging in activities subject to TISA that would be subject to the Board's rulemaking authority under section 1029 of the Dodd-Frank Act. Accordingly, the Board is repealing its Regulation DD.

DATES: The final rule is effective June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, at (202) 452–3667, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Board of Governors of the Federal Reserve System (Board) historically implemented the Truth in Savings Act