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Tuesday, July 19, 2011

Adverse Action and Risk-Based Disclosures (Final Rules)

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On July 6, 2011, the Federal Reserve Board (FRB) and the Federal Trade Commission (FTC) jointly issued final rules (Rules) to implement the credit score disclosure requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

Our previous notification relating to this rule was on [7/7/11](#), on [3-2-11](#), and [1-3-11](#).

The Rules also amend certain model notices in Regulation B (Equal Credit Opportunity), which combine the adverse action notice requirements for Regulation B and the FCRA, to reflect the new credit score disclosure requirements.

If a credit score is used in setting material terms of credit or in taking adverse action, the statute requires creditors to disclose credit scores and related information to consumers in notices under the Fair Credit Reporting Act (FCRA).

The Rules amend Regulation V (Fair Credit Reporting) to revise the content requirements for risk-based pricing notices, and to add related model forms that reflect the new credit score disclosure requirements.

REGULATION B (ECOA)

Adverse Action Notice

Section 701 of the Equal Credit Opportunity Act (ECOA) requires a creditor to notify a credit applicant when it has taken adverse action against the applicant. The ECOA adverse action requirements are implemented in the FRB's Regulation B.

Section 615(a) of the Fair Credit Reporting Act (FCRA) also requires a person to provide a notice when the person takes an adverse action against a consumer based in whole or in part on information in a consumer report.

Certain model notices in Regulation B include the content required by both the ECOA and the FCRA adverse action provisions, so that creditors can use the model notices to comply with the adverse action requirements of both statutes.

The FRB is amending these model notices in Regulation B to include the disclosure of credit scores and related information if a credit score is used in taking adverse action.

The revised model notices reflect the new content requirements in section 615(a) of the FCRA as amended by section 1100F of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Effective: August 15, 2011

REGULATION V (FCRA)

Fair Credit Reporting Risk-Based Pricing Regulations

On January 15, 2010, the Board and the Commission published final rules to implement the risk-based pricing provisions in section 311 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), which amended the Fair Credit Reporting Act (FCRA).

The final rules generally require a creditor to provide a risk-based pricing notice to a consumer when the creditor uses a consumer report to grant or extend credit to the 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 creditor.

The FRB and the Commission are amending their respective risk-based pricing rules to require disclosure of credit scores and information relating to credit scores in risk-based pricing notices if a credit score of the consumer is used in setting the material terms of credit.

These final rules reflect the new requirements in section 615(h) of the FCRA that were added by section 1100F of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Effective: August 15, 2011

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Equal Credit Opportunity
Regulation B

Adverse Action Notice

FRB: 12 CFR Part 202

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Fair Credit Reporting

Regulation V

Fair Credit Reporting Risk-Based Pricing Regulations

FRB: 12 CFR Part 222

FTC: 16 CFR Parts 640 and 698

Final Rules

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