§ 41.28 Effective date, compliance date, and prospective application.

(a) Effective date. This subpart is effective January 1, 2008.

(b) Mandatory compliance date. Compliance with this subpart is required not later than October 1, 2008.

(c) Prospective application. The provisions of this subpart shall not prohibit a bank from using eligibility information that it receives from an affiliate to make solicitations to a consumer if the bank receives such information prior to October 1, 2008. For purposes of this section, a bank is deemed to receive eligibility information when such information is placed into a common database and is accessible by the bank.

Subpart D—Medical Information

§ 41.30 Obtaining or using medical information in connection with a determination of eligibility for credit.

(a) Scope. This section applies to:

(1) Any person that participates as a creditor in a transaction and that is a national bank, a Federal branch or agency of a foreign bank, and their respective subsidiaries; or

(2) Any other person that participates as a creditor in a transaction involving a person described in paragraph (a)(1) of this section.

(b) General prohibition on obtaining or using medical information—(1) In general. A creditor may not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer’s eligibility, or continued eligibility, for credit, except as provided in this section.

(2) Definitions. (i) Credit has the same meaning as in section 702 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a.

(ii) Creditor has the same meaning as in section 702 of the Equal Credit Opportunity Act, 15 U.S.C. 1691a.

(iii) Eligibility, or continued eligibility, for credit means the consumer’s qualification or fitness to receive, or continue to receive, credit, including the terms on which credit is offered. The term does not include:

(A) Any determination of the consumer’s qualification or fitness for employment, insurance (other than a credit insurance product), or other non-credit products or services;

(B) Authorizing, processing, or documenting a payment or transaction on behalf of the consumer in a manner that does not involve a determination of the consumer’s eligibility, or continued eligibility, for credit; or

(C) Maintaining or servicing the consumer’s account in a manner that does not involve a determination of the consumer’s eligibility, or continued eligibility, for credit.