H-5. Model form for loans where credit score is not available

[Name of Entity Providing the Notice]
Credit Scores and the Price You Pay for Credit

<table>
<thead>
<tr>
<th>Your Credit Score</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Your credit score is not available from [Insert name of CRA], which is a consumer reporting agency, because they may not have enough information about your credit history to calculate a score.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What you should know about credit scores</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>A credit score is a number that reflects the information in a credit report.</td>
<td></td>
</tr>
<tr>
<td>A credit report is a record of your credit history. It includes information about whether you pay your bills on time and how much you owe to creditors.</td>
<td></td>
</tr>
<tr>
<td>A credit score can change, depending on how a consumer’s credit history changes.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Why credit scores are important</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Credit scores are important because consumers who have higher credit scores generally will get more favorable credit terms.</td>
<td></td>
</tr>
<tr>
<td>Not having a credit score can affect whether you can get a loan and how much you will have to pay for that loan.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Checking Your Credit Report</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>You have a right to dispute any inaccurate information in your credit report. If you find mistakes on your credit report, contact the consumer reporting agency.</td>
<td></td>
</tr>
<tr>
<td>It is a good idea to check your credit report to make sure the information it contains is accurate.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How can you obtain a copy of your credit report?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Under federal law, you have the right to obtain a free copy of your credit report from each of the nationwide consumer reporting agencies once a year.</td>
<td></td>
</tr>
<tr>
<td>To order your free annual credit report—</td>
<td></td>
</tr>
<tr>
<td>By telephone: Call toll-free: 1-877-322-8228</td>
<td></td>
</tr>
<tr>
<td>On the web: Visit <a href="http://www.annualcreditreport.com">www.annualcreditreport.com</a></td>
<td></td>
</tr>
<tr>
<td>By mail: Mail your completed Annual Credit Report Request Form (which you can obtain from the Federal Trade Commission’s web site at <a href="http://www.ftc.gov/bcp/conline/include/requestformfinal.pdf">http://www.ftc.gov/bcp/conline/include/requestformfinal.pdf</a>) to:</td>
<td></td>
</tr>
<tr>
<td>Annual Credit Report Request Service</td>
<td></td>
</tr>
<tr>
<td>P.O. Box 105281</td>
<td></td>
</tr>
<tr>
<td>Atlanta, GA 30348-5281</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How can you get more information?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>For more information about credit reports and your rights under federal law, visit the Federal Reserve Board’s web site at <a href="http://www.federalreserve.gov">www.federalreserve.gov</a>, or the Federal Trade Commission’s web site at <a href="http://www.ftc.gov">www.ftc.gov</a>.</td>
<td></td>
</tr>
</tbody>
</table>

[75 FR 2759, January 15, 2010]
Federal Reserve System

or maintains one or more covered accounts, as defined in §222.90(b)(3) of this part, to develop and provide for the continued administration of a written Program to detect, prevent, and mitigate identity theft in connection with the opening of a covered account or any existing covered account. These guidelines are intended to assist financial institutions and creditors in the formulation and maintenance of a Program that satisfies the requirements of §222.90 of this part.

I. The Program

In designing its Program, a financial institution or creditor may incorporate, as appropriate, its existing policies, procedures, and other arrangements that control reasonably foreseeable risks to customers or to the safety and soundness of the financial institution or creditor from identity theft.

II. Identifying Relevant Red Flags

(a) Risk Factors. A financial institution or creditor should consider the following factors in identifying relevant Red Flags for covered accounts, as appropriate:

1. The types of covered accounts it offers or maintains;
2. The methods it provides to open its covered accounts;
3. The methods it provides to access its covered accounts; and
4. Its previous experiences with identity theft.

(b) Sources of Red Flags. Financial institutions and creditors should incorporate relevant Red Flags from sources such as:

1. Incidents of identity theft that the financial institution or creditor has experienced;
2. Methods of identity theft that the financial institution or creditor has identified that reflect changes in identity theft risks; and
3. Applicable supervisory guidance.

(c) Categories of Red Flags. The Program should include relevant Red Flags from the following categories, as appropriate. Examples of Red Flags from each of these categories are appended as Supplement A to this appendix J:

1. Alerts, notifications, or other warnings received from consumer reporting agencies or service providers, such as fraud detection services;
2. The presentation of suspicious documents;
3. The presentation of suspicious personal identifying information, such as a suspicious address change;
4. The unusual use of, or other suspicious activity related to, a covered account; and
5. Notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts held by the financial institution or creditor.

III. Detecting Red Flags

The Program’s policies and procedures should address the detection of Red Flags in connection with the opening of covered accounts and existing covered accounts, such as by:

(a) Obtaining identifying information about, and verifying the identity of, a person opening a covered account, for example, using the policies and procedures regarding identification and verification set forth in the Customer Identification Program rules implementing 31 U.S.C. §5318(a) (31 CFR 103.121); and
(b) Authenticating customers, monitoring transactions, and verifying the validity of change of address requests, in the case of existing covered accounts.

IV. Preventing and Mitigating Identity Theft

The Program’s policies and procedures should provide for appropriate responses to the Red Flags the financial institution or creditor has detected that are commensurate with the degree of risk posed. In determining an appropriate response, a financial institution or creditor should consider aggravating factors that may heighten the risk of identity theft, such as a data security incident that results in unauthorized access to a customer’s account records held by the financial institution, creditor, or third party, or notice that a customer has provided information related to a covered account held by the financial institution or creditor to someone fraudulently claiming to represent the financial institution or creditor or to a fraudulent website. Appropriate responses may include the following:

(a) Monitoring a covered account for evidence of identity theft;
(b) Contacting the customer;
(c) Changing any passwords, security codes, or other security devices that permit access to a covered account;
(d) Reopening a covered account with a new account number;
(e) Not opening a new covered account;
(f) Closing an existing covered account;
(g) Not attempting to collect on a covered account or not selling a covered account to a debt collector;
(h) Notifying law enforcement; or
(i) Determining that no response is warranted under the particular circumstances.

V. Updating the Program

Financial institutions and creditors should update the Program (including the Red Flags determined to be relevant) periodically, to reflect changes in risks to customers or to
the safety and soundness of the financial institution or creditor from identity theft, based on factors such as:
   (a) The experiences of the financial institution or creditor with identity theft;
   (b) Changes in methods of identity theft;
   (c) Changes in methods to detect, prevent, and mitigate identity theft;
   (d) Changes in the types of accounts that the financial institution or creditor offers or maintains;
   and
   (e) Changes in the business arrangements of the financial institution or creditor, including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

VI. Methods for Administering the Program

   (a) Oversight of Program. Oversight by the board of directors, an appropriate committee of the board, or a designated employee at the level of senior management should include:

   (1) Assigning specific responsibility for the Program’s implementation;

   (2) Reviewing reports prepared by staff regarding compliance by the financial institution or creditor with §222.90 of this part; and

   (3) Approving material changes to the Program as necessary to address changing identity theft risks.

   (b) Reports. (1) In general. Staff of the financial institution or creditor responsible for development, implementation, and administration of its Program should report to the board of directors, an appropriate committee of the board, or a designated employee at the level of senior management, at least annually, on compliance by the financial institution or creditor with §222.90 of this part.

   (2) Contents of report. The report should address material matters related to the Program and evaluate issues such as: the effectiveness of the policies and procedures of the financial institution or creditor in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts; service provider arrangements; significant incidents involving identity theft and management’s response; and recommendations for material changes to the Program.

   (c) Oversight of service provider arrangements. Whenever a financial institution or creditor engages a service provider to perform an activity in connection with one or more covered accounts the financial institution or creditor should take steps to ensure that the activity of the service provider is conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft. For example, a financial institution or creditor could require the service provider by contract to have policies and procedures to detect relevant Red Flags that may arise in the performance of the service provider’s activities, and either report the Red Flags to the financial institution or creditor, or to take appropriate steps to prevent or mitigate identity theft.

VII. Other Applicable Legal Requirements

Financial institutions and creditors should be mindful of other related legal requirements that may be applicable, such as:

   (a) For financial institutions and creditors that are subject to 31 U.S.C. 5318(g), filing a Suspicious Activity Report in accordance with applicable law and regulation;

   (b) Implementing any requirements under 15 U.S.C. 1681c–1(h) regarding the circumstances under which credit may be extended when the financial institution or creditor detects a fraud or active duty alert;

   (c) Implementing any requirements for furnishers of information to consumer reporting agencies under 15 U.S.C. 1681s–2, for example, to correct or update inaccurate or incomplete information, and to not report information that the furnisher has reasonable cause to believe is inaccurate; and

   (d) Complying with the prohibitions in 15 U.S.C. 1681m on the sale, transfer, and placement for collection of certain debts resulting from identity theft.

In addition to incorporating Red Flags from the sources recommended in section II.b. of the Guidelines in appendix J of this part, each financial institution or creditor may consider incorporating into its Program, whether singly or in combination, Red Flags from the following illustrative examples in connection with covered accounts:

   Alerts, Notifications or Warnings from a Consumer Reporting Agency

1. A fraud or active duty alert is included with a consumer report.

2. A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.

3. A consumer reporting agency provides a notice of address discrepancy, as defined in §222.52(b) of this part.

4. A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:

   a. A recent and significant increase in the volume of inquiries;

   b. An unusual number of recently established credit relationships;

   c. A material change in the use of credit, especially with respect to recently established credit relationships; or

   d. An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
Suspicious Documents

5. Documents provided for identification appear to have been altered or forged.
6. The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
7. Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
8. Other information on the identification is not consistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check.
9. An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

Suspicious Personal Identifying Information

10. Personal identifying information provided is inconsistent when compared against external information sources used by the financial institution or creditor. For example:
   a. The address does not match any address in the consumer report; or
   b. The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration’s Death Master File.
11. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
12. Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:
   a. The address on an application is the same as the address provided on a fraudulent application; or
   b. The phone number on an application is the same as the number provided on a fraudulent application.
13. Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the financial institution or creditor. For example:
   a. The address on an application is fictitious, a mail drop, or a prison; or
   b. The phone number is invalid, or is associated with a pager or answering service.
14. The SSN provided is the same as that submitted by other persons opening an account or other customers.
15. The address or telephone number provided is the same as or similar to the address or telephone number submitted by an unusually large number of other persons opening accounts or by other customers.
16. The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
17. Personal identifying information provided is not consistent with personal identifying information that is on file with the financial institution or creditor.
18. For financial institutions and creditors that use challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

Unusual Use of, or Suspicious Activity Related to, the Covered Account

19. Shortly following the notice of a change of address for a covered account, the institution or creditor receives a request for a new, additional, or replacement card or a cell phone, or for the addition of authorized users on the account.
20. A new revolving credit account is used in a manner commonly associated with known patterns of fraud. For example:
   a. The majority of available credit is used for cash advances or merchandise that is easily convertible to cash (e.g., electronics equipment or jewelry); or
   b. The customer fails to make the first payment or makes an initial payment but no subsequent payments.
21. A covered account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
   a. Nonpayment when there is no history of late or missed payments;
   b. A material increase in the use of available credit;
   c. A material change in purchasing or spending patterns;
   d. A material change in electronic fund transfer patterns in connection with a deposit account; or
   e. A material change in telephone call patterns in connection with a cellular phone account.
22. A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
23. Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer’s covered account.
24. The financial institution or creditor is notified that the customer is not receiving paper account statements.
25. The financial institution or creditor is notified of unauthorized charges or transactions in connection with a customer’s covered account.
Notice from Customers, Victims of Identity Theft, Law Enforcement Authorities, or Other Persons Regarding Possible Identity Theft in Connection with Covered Accounts Held by the Financial Institution or Creditor

26. The financial institution or creditor is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.


PART 223—TRANSACTIONS BETWEEN MEMBER BANKS AND THEIR AFFILIATES (REGULATION W)

Subpart A—Introduction and Definitions

Sec.
223.1 Authority, purpose, and scope.
223.2 What is an “affiliate” for purposes of sections 23A and 23B and this part?
223.3 What are the meanings of the other terms used in sections 23A and 23B and this part?

Subpart B—General Provisions of Section 23A

223.11 What is the maximum amount of covered transactions that a member bank may enter into with any single affiliate?
223.12 What is the maximum amount of covered transactions that a member bank may enter into with all affiliates?
223.13 What safety and soundness requirement applies to covered transactions?
223.14 What are the collateral requirements for a credit transaction with an affiliate?
223.15 May a member bank purchase a low-quality asset from an affiliate?
223.16 What transactions by a member bank with any person are treated as transactions with an affiliate?

Subpart C—Valuation and Timing Principles Under Section 23A

223.21 What valuation and timing principles apply to credit transactions?
223.22 What valuation and timing principles apply to asset purchases?
223.23 What valuation and timing principles apply to purchases of and investments in securities issued by an affiliate?
223.24 What valuation principles apply to extensions of credit secured by affiliate securities?

Subpart D—Other Requirements Under Section 23A

223.31 How does section 23A apply to a member bank’s acquisition of an affiliate that becomes an operating subsidiary of the member bank after the acquisition?
223.32 What rules apply to financial subsidiaries of a member bank?
223.33 What rules apply to derivative transactions?

Subpart E—Exemptions from the Provisions of Section 23A

223.41 What covered transactions are exempt from the quantitative limits and collateral requirements?
223.42 What covered transactions are exempt from the quantitative limits, collateral requirements, and low-quality asset prohibition?
223.43 What are the standards under which the Board may grant additional exemptions from the requirements of section 23A?

Subpart F—General Provisions of Section 23B

223.51 What is the market terms requirement of section 23B?
223.52 What transactions with affiliates or others must comply with section 23B’s market terms requirement?
223.53 What asset purchases are prohibited by section 23B?
223.54 What advertisements and statements are prohibited by section 23B?
223.55 What are the standards under which the Board may grant exemptions from the requirements of section 23B?
223.56 What transactions are exempt from the market-terms requirement of section 23B?

Subpart G—Application of Sections 23A and 23B to U.S. Branches and Agencies of Foreign Banks

223.61 How do sections 23A and 23B apply to U.S. branches and agencies of foreign banks?

Subpart H—Miscellaneous Interpretations

223.71 How do sections 23A and 23B apply to transactions in which a member bank purchases from one affiliate an asset relating to another affiliate?

AUTHORITY: 12 U.S.C. 371c(b)(1)(E), (b)(2)(A), and (f), 371c-1(e), 1829(j), and 1468(a).

SOURCE: 67 FR 76604, Dec. 12, 2002, unless otherwise noted.