(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.


§ 41.83 Disposal of consumer information.

(a) Definitions as used in this section.
(1) **Bank** means national banks, Federal branches and agencies of foreign banks, and their respective operating subsidiaries.

(b) In general. Each bank must properly dispose of any consumer information that it maintains or otherwise possesses in accordance with the Interagency Guidelines Establishing Information Security Standards, as set forth in appendix B to 12 CFR part 30, to the extent that the bank is covered by the scope of the Guidelines.

(c) Rule of construction. Nothing in this section shall be construed to:

(1) Require a bank to maintain or destroy any record pertaining to a consumer that is not imposed under any other law; or

(2) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

Subpart J—Identity Theft Red Flags

SOURCE: 72 FR 63753, Nov. 9, 2007, unless otherwise noted.

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

(a) **Scope.** This section applies to a financial institution or creditor that is a national bank, Federal branch or agency of a foreign bank, and any of their operating subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)).

(b) **Definitions.** For purposes of this section and appendix J, the following definitions apply:

(1) **Account** means a continuing relationship established by a person with a financial institution or creditor to obtain a product or service for personal, family, household or business purposes. Account includes:

(i) An extension of credit, such as the purchase of property or services involving a deferred payment; and

(ii) A deposit account.

(2) The term **board of directors** includes:

(i) In the case of a branch or agency of a foreign bank, the managing official in charge of the branch or agency; and

(ii) In the case of any other creditor that does not have a board of directors, a designated employee at the level of senior management.

(3) **Covered account** means:

(i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and

(ii) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(4) **Credit** has the same meaning as in 15 U.S.C. 1681a(r)(5).

(5) **Creditor** has the same meaning as in 15 U.S.C. 1681a(r)(5), and includes lenders such as banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies.

(6) **Customer** means a person that has a covered account with a financial institution or creditor.
(7) Financial institution has the same meaning as in 15 U.S.C. 1681a(t).
(8) Identity theft has the same meaning as in 16 CFR 603.2(a).
(9) Red Flag means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
(10) Service provider means a person that provides a service directly to the financial institution or creditor.

(c) Periodic Identification of Covered Accounts. Each financial institution or creditor must periodically determine whether it offers or maintains covered accounts. As a part of this determination, a financial institution or creditor must conduct a risk assessment to determine whether it offers or maintains covered accounts described in paragraph (b)(3)(ii) of this section, taking into consideration:

(1) The methods it provides to open its accounts;
(2) The methods it provides to access its accounts; and
(3) Its previous experiences with identity theft.

(d) Establishment of an Identity Theft Prevention Program. (1) Program requirement. Each financial institution or creditor that offers or maintains one or more covered accounts must develop and implement a written Identity Theft Prevention Program (Program) that is designed to detect, prevent, and mitigate identity theft in connection with the opening of a covered account or any existing covered account. The Program must be appropriate to the size and complexity of the financial institution or creditor and the nature and scope of its activities.

(2) Elements of the Program. The Program must include reasonable policies and procedures to:

(i) Identify relevant Red Flags for the covered accounts that the financial institution or creditor offers or maintains, and incorporate those Red Flags into its Program;
(ii) Detect Red Flags that have been incorporated into the Program of the financial institution or creditor;
(iii) Respond appropriately to any Red Flags that are detected pursuant to paragraph (d)(2)(ii) of this section to prevent and mitigate identity theft; and
(iv) Ensure the Program (including the Red Flags determined to be relevant) is updated periodically, to reflect changes in risks to customers and to the safety and soundness of the financial institution or creditor from identity theft.

(e) Administration of the Program. Each financial institution or creditor that is required to implement a Program must provide for the continued administration of the Program and must:

(1) Obtain approval of the initial written Program from either its board of directors or an appropriate committee of the board of directors;
(2) Involve the board of directors, an appropriate committee thereof, or a designated employee at the level of senior management in the oversight, development, implementation and administration of the Program;
(3) Train staff, as necessary, to effectively implement the Program; and
(4) Exercise appropriate and effective oversight of service provider arrangements.

(f) Guidelines. Each financial institution or creditor that is required to implement a Program must consider the guidelines in appendix J of this part and include in its Program those guidelines that are appropriate.

§ 41.91 Duties of card issuers regarding changes of address.

(a) Scope. This section applies to an issuer of a debit or credit card (card issuer) that is a national bank, Federal branch or agency of a foreign bank, and any of their operating subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)).

(b) Definitions. For purposes of this section:

(1) Cardholder means a consumer who has been issued a credit or debit card.
(2) Clear and conspicuous means reasonably understandable and designed to call attention to the nature and significance of the information presented.
(3) Address validation requirements. A card issuer must establish and implement reasonable policies and procedures to assess the validity of a change of address if it receives notification of