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(ii) If it shares with nonaffiliated third parties, state, as applicable: “*Nonaffiliates we share with can include [list categories of companies such as mortgage companies, insurance companies, direct marketing companies, and nonprofit organizations].*”

(3) *Joint Marketing.* As required by §1016.13 of this part, where [joint marketing] appears, the financial institution must:

(i) If it does not engage in joint marketing, state: “[name of financial institution] doesn’t jointly market”; or

(ii) If it shares personal information for joint marketing, state, as applicable: “*Our joint marketing partners include [list categories of companies such as credit card companies].*”

(c) *General instructions for the “Other important information”* box. This box is optional. The space provided for information in this box is not limited. Only the following types of information can appear in this box.

(1) State and/or international privacy law information; and/or

(2) Acknowledgment of receipt form.

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APPENDIX N TO PART 1022—NOTICE OF USER RESPONSIBILITIES

AUTHORITY: 12 U.S.C. 5512, 5581; 15 U.S.C. 1681a, 1681b, 1681c, 1681c-1, 1681e, 1681g, 1681i, 1681j, 1681m, 1681s, 1681s-2, 1681s-3, and 1681t; Sec. 214, Public Law 108-159, 117 Stat. 1952.

SOURCE: 76 FR 79312, Dec. 21, 2011, unless otherwise noted.

**Subpart A—General Provisions**

**§ 1022.1 Purpose, scope, and model forms and disclosures.**

(a) *Purpose.* The purpose of this part is to implement the Fair Credit Reporting Act (FCRA). This part generally applies to persons that obtain and use information about consumers to determine the consumer's eligibility for products, services, or employment, share such information among affiliates, and furnish information to consumer reporting agencies.

(b) *Scope.* (1) [Reserved]

(2) *Institutions covered.* (i) Except as otherwise provided in this part, this part applies to any person subject to the FCRA except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protec-

tion Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376.

(ii) For purposes of appendix B to this part, financial institutions as defined in section 509 of the Gramm-Leach-Bliley Act (12 U.S.C. 6809), may use the model notices in appendix B to this part to comply with the notice requirement in section 623(a)(7) of the FCRA (15 U.S.C. 1681s-2(a)(7)).

(c) *Model forms and disclosures—(1) Use.* Appendices D, H, I, K, L, M, and N contain model forms and disclosures. These appendices carry out the directive in FCRA that the Bureau prescribe such model forms and disclosures. Use or distribution of these model forms and disclosures, or substantially similar forms and disclosures, will constitute compliance with any section or subsection of the FCRA requiring that such forms and disclosures be used by or supplied to any person.

(2) *Definition. Substantially similar* means that all information in the Bureau's prescribed model is included in the document that is distributed, and that the document distributed is formatted in a way consistent with the format prescribed by the Bureau. The document that is distributed shall not include anything that interferes with, detracts from, or otherwise undermines the information contained in the Bureau's prescribed model. Until January 1, 2013, the model forms in appendices B, E, F, G, and H to 16 CFR part 698, as those appendices existed as of October 1, 2011, are deemed substantially similar to the corresponding model forms in appendices H, I, K, M, and N to this part, and the model forms in appendix H to 12 CFR part 222, as that appendix existed as of October 1, 2011, are deemed substantially similar to the corresponding model forms in appendix H to this part.

**§ 1022.2 Examples.**

The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part. Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issue that may arise in this part.

**§ 1022.3 Definitions.**

For purposes of this part, unless explicitly stated otherwise:

(a) *Act* means the FCRA (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate* means any company that is related by common ownership or common corporate control with another company. For example, an affiliate of a Federal credit union is a credit union service corporation, as provided in 12 CFR part 712, that is controlled by the Federal credit union.

(c) [Reserved]

(d) *Common ownership or common corporate control* means a relationship between two companies under which:

(1) One company has, with respect to the other company:

(i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of a company, directly or indirectly, or acting through one or more other persons;

(ii) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of a company; or

(iii) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company, as determined by the applicable prudential regulator (as defined in 12 U.S.C. 5481(24)) (a credit union is presumed to have a controlling influence over the management or policies of a credit union service corporation if the credit union service corporation is 67% owned by credit unions) or, where there is no prudential regulator, by the Bureau; or

(2) Any other person has, with respect to both companies, a relationship described in paragraphs (d)(1)(i) through (d)(1)(ii).

(e) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(f) *Consumer* means an individual.

(g) *Identifying information* means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any:

(1) Name, social security number, date of birth, official state or govern-

ment issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(2) Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(3) Unique electronic identification number, address, or routing code; or

(4) Telecommunication identifying information or access device (as defined in 18 U.S.C. 1029(e)).

(h) *Identity theft* means a fraud committed or attempted using the identifying information of another person without authority.

(i)(1) *Identity theft report* means a report:

(i) That alleges identity theft with as much specificity as the consumer can provide;

(ii) That is a copy of an official, valid report filed by the consumer with a Federal, state, or local law enforcement agency, including the United States Postal Inspection Service, the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information, if, in fact, the information in the report is false; and

(iii) That may include additional information or documentation that an information furnisher or consumer reporting agency reasonably requests for the purpose of determining the validity of the alleged identity theft, provided that the information furnisher or consumer reporting agency:

(A) Makes such request not later than fifteen days after the date of receipt of the copy of the report form identified in paragraph (i)(1)(ii) of this section or the request by the consumer for the particular service, whichever shall be the later;

(B) Makes any supplemental requests for information or documentation and final determination on the acceptance of the identity theft report within another fifteen days after its initial request for information or documentation; and

(C) Shall have five days to make a final determination on the acceptance of the identity theft report, in the event that the consumer reporting

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agency or information furnisher receives any such additional information or documentation on the eleventh day or later within the fifteen day period set forth in paragraph (i)(1)(iii)(B) of this section.

(2) Examples of the specificity referenced in paragraph (i)(1)(i) of this section are provided for illustrative purposes only, as follows:

(i) Specific dates relating to the identity theft such as when the loss or theft of personal information occurred or when the fraud(s) using the personal information occurred, and how the consumer discovered or otherwise learned of the theft.

(ii) Identification information or any other information about the perpetrator, if known.

(iii) Name(s) of information furnisher(s), account numbers, or other relevant account information related to the identity theft.

(iv) Any other information known to the consumer about the identity theft.

(3) Examples of when it would or would not be reasonable to request additional information or documentation referenced in paragraph (i)(1)(iii) of this section are provided for illustrative purposes only, as follows:

(i) A law enforcement report containing detailed information about the identity theft and the signature, badge number or other identification information of the individual law enforcement official taking the report should be sufficient on its face to support a victim's request. In this case, without an identifiable concern, such as an indication that the report was fraudulent, it would not be reasonable for an information furnisher or consumer reporting agency to request additional information or documentation.

(ii) A consumer might provide a law enforcement report similar to the report in paragraph (i)(1) of this section but certain important information such as the consumer's date of birth or Social Security number may be missing because the consumer chose not to provide it. The information furnisher or consumer reporting agency could accept this report, but it would be reasonable to require that the consumer provide the missing information. The Bureau's Identity Theft Affidavit is

available on the Bureau's Web site ([consumerfinance.gov/learnmore](http://consumerfinance.gov/learnmore)). The version of this form developed by the Federal Trade Commission, available on the FTC's Web site ([ftc.gov/idtheft](http://ftc.gov/idtheft)), remains valid and sufficient for this purpose.

(iii) A consumer might provide a law enforcement report generated by an automated system with a simple allegation that an identity theft occurred to support a request for a tradeline block or cessation of information furnishing. In such a case, it would be reasonable for an information furnisher or consumer reporting agency to ask that the consumer fill out and have notarized the Bureau's Identity Theft Affidavit or a similar form and provide some form of identification documentation.

(iv) A consumer might provide a law enforcement report generated by an automated system with a simple allegation that an identity theft occurred to support a request for an extended fraud alert. In this case, it would not be reasonable for a consumer reporting agency to require additional documentation or information, such as a notarized affidavit.

(j) [Reserved]

(k) *Medical information* means:

(1) Information or data, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to:

(i) The past, present, or future physical, mental, or behavioral health or condition of an individual;

(ii) The provision of health care to an individual; or

(iii) The payment for the provision of health care to an individual.

(2) The term does not include:

(i) The age or gender of a consumer;

(ii) Demographic information about the consumer, including a consumer's residence address or email address;

(iii) Any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy; or

(iv) Information that does not identify a specific consumer.

(1) *Person* means any individual, partnership, corporation, trust, estate cooperative, association, government or governmental subdivision or agency, or other entity.

### Subpart B [Reserved]

### Subpart C—Affiliate Marketing

#### § 1022.20 Coverage and definitions.

(a) *Coverage.* Subpart C of this part applies to any person that uses information from its affiliates for the purpose of marketing solicitations, or provides information to its affiliates for that purpose, other than a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 137.

(b) *Definitions.* For purposes of this subpart:

(1) *Clear and conspicuous.* The term “clear and conspicuous” means reasonably understandable and designed to call attention to the nature and significance of the information presented.

(2) *Concise—(i) In general.* The term “concise” means a reasonably brief expression or statement.

(ii) *Combination with other required disclosures.* A notice required by this subpart may be concise even if it is combined with other disclosures required or authorized by Federal or state law.

(3) *Eligibility information.* The term “eligibility information” means any information the communication of which would be a consumer report if the exclusions from the definition of “consumer report” in section 603(d)(2)(A) of the Act did not apply. Eligibility information does not include aggregate or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

(4) *Pre-existing business relationship—(i) In general.* The term “pre-existing business relationship” means a relationship between a person, or a person’s licensed agent, and a consumer based on:

(A) A financial contract between the person and the consumer which is in force on the date on which the con-

sumer is sent a solicitation covered by this subpart;

(B) The purchase, rental, or lease by the consumer of the person’s goods or services, or a financial transaction (including holding an active account or a policy in force or having another continuing relationship) between the consumer and the person, during the 18-month period immediately preceding the date on which the consumer is sent a solicitation covered by this subpart; or

(C) An inquiry or application by the consumer regarding a product or service offered by that person during the three-month period immediately preceding the date on which the consumer is sent a solicitation covered by this subpart.

(ii) *Examples of pre-existing business relationships.* (A) If a consumer has a time deposit account, such as a certificate of deposit, at a financial institution that is currently in force, the financial institution has a pre-existing business relationship with the consumer and can use eligibility information it receives from its affiliates to make solicitations to the consumer about its products or services.

(B) If a consumer obtained a certificate of deposit from a financial institution, but did not renew the certificate at maturity, the financial institution has a pre-existing business relationship with the consumer and can use eligibility information it receives from its affiliates to make solicitations to the consumer about its products or services for 18 months after the date of maturity of the certificate of deposit.

(C) If a consumer obtains a mortgage, the mortgage lender has a pre-existing business relationship with the consumer. If the mortgage lender sells the consumer’s entire loan to an investor, the mortgage lender has a pre-existing business relationship with the consumer and can use eligibility information it receives from its affiliates to make solicitations to the consumer about its products or services for 18 months after the date it sells the loan, and the investor has a pre-existing business relationship with the consumer upon purchasing the loan. If, however, the mortgage lender sells a fractional interest in the consumer’s

loan to an investor but also retains an ownership interest in the loan, the mortgage lender continues to have a pre-existing business relationship with the consumer, but the investor does not have a pre-existing business relationship with the consumer. If the mortgage lender retains ownership of the loan, but sells ownership of the servicing rights to the consumer's loan, the mortgage lender continues to have a pre-existing business relationship with the consumer. The purchaser of the servicing rights also has a pre-existing business relationship with the consumer as of the date it purchases ownership of the servicing rights, but only if it collects payments from or otherwise deals directly with the consumer on a continuing basis.

(D) If a consumer applies to a financial institution for a product or service that it offers, but does not obtain a product or service from or enter into a financial contract or transaction with the institution, the financial institution has a pre-existing business relationship with the consumer and can therefore use eligibility information it receives from an affiliate to make solicitations to the consumer about its products or services for three months after the date of the application.

(E) If a consumer makes a telephone inquiry to a financial institution about its products or services and provides contact information to the institution, but does not obtain a product or service from or enter into a financial contract or transaction with the institution, the financial institution has a pre-existing business relationship with the consumer and can therefore use eligibility information it receives from an affiliate to make solicitations to the consumer about its products or services for three months after the date of the inquiry.

(F) If a consumer makes an inquiry to a financial institution by email about its products or services, but does not obtain a product or service from or enter into a financial contract or transaction with the institution, the financial institution has a pre-existing business relationship with the consumer and can therefore use eligibility information it receives from an affiliate to make solicitations to the con-

sumer about its products or services for three months after the date of the inquiry.

(G) If a consumer has an existing relationship with a financial institution that is part of a group of affiliated companies, makes a telephone call to the centralized call center for the group of affiliated companies to inquire about products or services offered by the insurance affiliate, and provides contact information to the call center, the call constitutes an inquiry to the insurance affiliate that offers those products or services. The insurance affiliate has a pre-existing business relationship with the consumer and can therefore use eligibility information it receives from its affiliated financial institution to make solicitations to the consumer about its products or services for three months after the date of the inquiry.

(iii) *Examples where no pre-existing business relationship is created.* (A) If a consumer makes a telephone call to a centralized call center for a group of affiliated companies to inquire about the consumer's existing account at a financial institution, the call does not constitute an inquiry to any affiliate other than the financial institution that holds the consumer's account and does not establish a pre-existing business relationship between the consumer and any affiliate of the account-holding financial institution.

(B) If a consumer who has a deposit account with a financial institution makes a telephone call to an affiliate of the institution to ask about the affiliate's retail locations and hours, but does not make an inquiry about the affiliate's products or services, the call does not constitute an inquiry and does not establish a pre-existing business relationship between the consumer and the affiliate. Also, the affiliate's capture of the consumer's telephone number does not constitute an inquiry and does not establish a pre-existing business relationship between the consumer and the affiliate.

(C) If a consumer makes a telephone call to a financial institution in response to an advertisement that offers a free promotional item to consumers who call a toll-free number, but the advertisement does not indicate that the

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financial institution's products or services will be marketed to consumers who call in response, the call does not create a pre-existing business relationship between the consumer and the financial institution because the consumer has not made an inquiry about a product or service offered by the institution, but has merely responded to an offer for a free promotional item.

(5) *Solicitation*—(i) *In general.* The term “solicitation” means the marketing of a product or service initiated by a person to a particular consumer that is:

(A) Based on eligibility information communicated to that person by its affiliate as described in this subpart; and

(B) Intended to encourage the consumer to purchase or obtain such product or service.

(ii) *Exclusion of marketing directed at the general public.* A solicitation does not include marketing communications that are directed at the general public. For example, television, general circulation magazine, and billboard advertisements do not constitute solicitations, even if those communications are intended to encourage consumers to purchase products and services from the person initiating the communications.

(iii) *Examples of solicitations.* A solicitation would include, for example, a telemarketing call, direct mail, email, or other form of marketing communication directed to a particular consumer that is based on eligibility information received from an affiliate.

(6) *You* means a person described in paragraph (a) of this section.

**§ 1022.21 Affiliate marketing opt-out and exceptions.**

(a) *Initial notice and opt-out requirement*—(1) *In general.* You may not use eligibility information about a consumer that you receive from an affiliate to make a solicitation for marketing purposes to the consumer, unless:

(i) It is clearly and conspicuously disclosed to the consumer in writing or, if the consumer agrees, electronically, in a concise notice that you may use eligibility information about that consumer received from an affiliate to

make solicitations for marketing purposes to the consumer;

(ii) The consumer is provided a reasonable opportunity and a reasonable and simple method to “opt out,” or prohibit you from using eligibility information to make solicitations for marketing purposes to the consumer; and

(iii) The consumer has not opted out.

(2) *Example.* A consumer has a homeowner's insurance policy with an insurance company. The insurance company furnishes eligibility information about the consumer to its affiliated creditor. Based on that eligibility information, the creditor wants to make a solicitation to the consumer about its home equity loan products. The creditor does not have a pre-existing business relationship with the consumer and none of the other exceptions apply. The creditor is prohibited from using eligibility information received from its insurance affiliate to make solicitations to the consumer about its home equity loan products unless the consumer is given a notice and opportunity to opt out and the consumer does not opt out.

(3) *Affiliates who may provide the notice.* The notice required by this paragraph must be provided:

(i) By an affiliate that has or has previously had a pre-existing business relationship with the consumer; or

(ii) As part of a joint notice from two or more members of an affiliated group of companies, provided that at least one of the affiliates on the joint notice has or has previously had a pre-existing business relationship with the consumer.

(b) *Making solicitations*—(1) *In general.* For purposes of this subpart, you make a solicitation for marketing purposes if:

(i) You receive eligibility information from an affiliate;

(ii) You use that eligibility information to do one or more of the following:

(A) Identify the consumer or type of consumer to receive a solicitation;

(B) Establish criteria used to select the consumer to receive a solicitation; or

(C) Decide which of your products or services to market to the consumer or tailor your solicitation to that consumer; and

(iii) As a result of your use of the eligibility information, the consumer is provided a solicitation.

(2) *Receiving eligibility information from an affiliate, including through a common database.* You may receive eligibility information from an affiliate in various ways, including when the affiliate places that information into a common database that you may access.

(3) *Receipt or use of eligibility information by your service provider.* Except as provided in paragraph (b)(5) of this section, you receive or use an affiliate's eligibility information if a service provider acting on your behalf (whether an affiliate or a nonaffiliated third party) receives or uses that information in the manner described in paragraphs (b)(1)(i) or (b)(1)(ii) of this section. All relevant facts and circumstances will determine whether a person is acting as your service provider when it receives or uses an affiliate's eligibility information in connection with marketing your products and services.

(4) *Use by an affiliate of its own eligibility information.* Unless you have used eligibility information that you receive from an affiliate in the manner described in paragraph (b)(1)(ii) of this section, you do not make a solicitation subject to this subpart if your affiliate:

(i) Uses its own eligibility information that it obtained in connection with a pre-existing business relationship it has or had with the consumer to market your products or services to the consumer; or

(ii) Directs its service provider to use the affiliate's own eligibility information that it obtained in connection with a pre-existing business relationship it has or had with the consumer to market your products or services to the consumer, and you do not communicate directly with the service provider regarding that use.

(5) *Use of eligibility information by a service provider—(i) In general.* You do not make a solicitation subject to subpart C of this part if a service provider (including an affiliated or third-party service provider that maintains or accesses a common database that you may access) receives eligibility information from your affiliate that your affiliate obtained in connection with a pre-existing business relationship it

has or had with the consumer and uses that eligibility information to market your products or services to the consumer, so long as:

(A) Your affiliate controls access to and use of its eligibility information by the service provider (including the right to establish the specific terms and conditions under which the service provider may use such information to market your products or services);

(B) Your affiliate establishes specific terms and conditions under which the service provider may access and use the affiliate's eligibility information to market your products and services (or those of affiliates generally) to the consumer, such as the identity of the affiliated companies whose products or services may be marketed to the consumer by the service provider, the types of products or services of affiliated companies that may be marketed, and the number of times the consumer may receive marketing materials, and periodically evaluates the service provider's compliance with those terms and conditions;

(C) Your affiliate requires the service provider to implement reasonable policies and procedures designed to ensure that the service provider uses the affiliate's eligibility information in accordance with the terms and conditions established by the affiliate relating to the marketing of your products or services;

(D) Your affiliate is identified on or with the marketing materials provided to the consumer; and

(E) You do not directly use your affiliate's eligibility information in the manner described in paragraph (b)(1)(ii) of this section.

(ii) *Writing requirements.* (A) The requirements of paragraphs (b)(5)(i)(A) and (C) of this section must be set forth in a written agreement between your affiliate and the service provider; and

(B) The specific terms and conditions established by your affiliate as provided in paragraph (b)(5)(i)(B) of this section must be set forth in writing.

(6) *Examples of making solicitations.* (i) A consumer has a deposit account with a financial institution, which is affiliated with an insurance company. The insurance company receives eligibility

information about the consumer from the financial institution. The insurance company uses that eligibility information to identify the consumer to receive a solicitation about insurance products, and, as a result, the insurance company provides a solicitation to the consumer about its insurance products. Pursuant to paragraph (b)(1) of this section, the insurance company has made a solicitation to the consumer.

(ii) The same facts as in the example in paragraph (b)(6)(i) of this section, except that after using the eligibility information to identify the consumer to receive a solicitation about insurance products, the insurance company asks the financial institution to send the solicitation to the consumer and the financial institution does so. Pursuant to paragraph (b)(1) of this section, the insurance company has made a solicitation to the consumer because it used eligibility information about the consumer that it received from an affiliate to identify the consumer to receive a solicitation about its products or services, and, as a result, a solicitation was provided to the consumer about the insurance company's products.

(iii) The same facts as in the example in paragraph (b)(6)(i) of this section, except that eligibility information about consumers that have deposit accounts with the financial institution is placed into a common database that all members of the affiliated group of companies may independently access and use. Without using the financial institution's eligibility information, the insurance company develops selection criteria and provides those criteria, marketing materials, and related instructions to the financial institution. The financial institution reviews eligibility information about its own consumers using the selection criteria provided by the insurance company to determine which consumers should receive the insurance company's marketing materials and sends marketing materials about the insurance company's products to those consumers. Even though the insurance company has received eligibility information through the common database as provided in paragraph (b)(2) of this sec-

tion, it did not use that information to identify consumers or establish selection criteria; instead, the financial institution used its own eligibility information. Therefore, pursuant to paragraph (b)(4)(i) of this section, the insurance company has not made a solicitation to the consumer.

(iv) The same facts as in the example in paragraph (b)(6)(iii) of this section, except that the financial institution provides the insurance company's criteria to the financial institution's service provider and directs the service provider to use the financial institution's eligibility information to identify financial institution consumers who meet the criteria and to send the insurance company's marketing materials to those consumers. The insurance company does not communicate directly with the service provider regarding the use of the financial institution's information to market its products to the financial institution's consumers. Pursuant to paragraph (b)(4)(ii) of this section, the insurance company has not made a solicitation to the consumer.

(v) An affiliated group of companies includes a financial institution, an insurance company, and a service provider. Each affiliate in the group places information about its consumers into a common database. The service provider has access to all information in the common database. The financial institution controls access to and use of its eligibility information by the service provider. This control is set forth in a written agreement between the financial institution and the service provider. The written agreement also requires the service provider to establish reasonable policies and procedures designed to ensure that the service provider uses the financial institution's eligibility information in accordance with specific terms and conditions established by the financial institution relating to the marketing of the products and services of all affiliates, including the insurance company. In a separate written communication, the financial institution specifies the terms and conditions under which the service provider may use the financial institution's eligibility information to

market the insurance company's products and services to the financial institution's consumers. The specific terms and conditions are: a list of affiliated companies (including the insurance company) whose products or services may be marketed to the financial institution's consumers by the service provider; the specific products or types of products that may be marketed to the financial institution's consumers by the service provider; the categories of eligibility information that may be used by the service provider in marketing products or services to the financial institution's consumers; the types or categories of the financial institution's consumers to whom the service provider may market products or services of financial institution affiliates; the number and/or types of marketing communications that the service provider may send to the financial institution's consumers; and the length of time during which the service provider may market the products or services of the financial institution's affiliates to its consumers. The financial institution periodically evaluates the service provider's compliance with these terms and conditions. The insurance company asks the service provider to market insurance products to certain consumers who have deposit accounts with the financial institution. Without using the financial institution's eligibility information, the insurance company develops selection criteria and provides those criteria, marketing materials, and related instructions to the service provider. The service provider uses the financial institution's eligibility information from the common database to identify the financial institution's consumers to whom insurance products will be marketed. When the insurance company's marketing materials are provided to the identified consumers, the name of the financial institution is displayed on the insurance marketing materials, an introductory letter that accompanies the marketing materials, an account statement that accompanies the marketing materials, or the envelope containing the marketing materials. The requirements of paragraph (b)(5) of this section have been satisfied, and

the insurance company has not made a solicitation to the consumer.

(vi) The same facts as in the example in paragraph (b)(6)(v) of this section, except that the terms and conditions permit the service provider to use the financial institution's eligibility information to market the products and services of other affiliates to the financial institution's consumers whenever the service provider deems it appropriate to do so. The service provider uses the financial institution's eligibility information in accordance with the discretion afforded to it by the terms and conditions. Because the terms and conditions are not specific, the requirements of paragraph (b)(5) of this section have not been satisfied.

(c) *Exceptions.* The provisions of this subpart do not apply to you if you use eligibility information that you receive from an affiliate:

(1) To make a solicitation for marketing purposes to a consumer with whom you have a pre-existing business relationship;

(2) To facilitate communications to an individual for whose benefit you provide employee benefit or other services pursuant to a contract with an employer related to and arising out of the current employment relationship or status of the individual as a participant or beneficiary of an employee benefit plan;

(3) To perform services on behalf of an affiliate, except that this subparagraph shall not be construed as permitting you to send solicitations on behalf of an affiliate if the affiliate would not be permitted to send the solicitation as a result of the election of the consumer to opt out under this subpart;

(4) In response to a communication about your products or services initiated by the consumer;

(5) In response to an authorization or request by the consumer to receive solicitations; or

(6) If your compliance with this subpart would prevent you from complying with any provision of state insurance laws pertaining to unfair discrimination in any state in which you are lawfully doing business.

(d) *Examples of exceptions—(1) Example of the pre-existing business relationship*

*exception.* A consumer has a deposit account with a financial institution. The consumer also has a relationship with the financial institution's securities affiliate for management of the consumer's securities portfolio. The financial institution receives eligibility information about the consumer from its securities affiliate and uses that information to make a solicitation to the consumer about the financial institution's wealth management services. The financial institution may make this solicitation even if the consumer has not been given a notice and opportunity to opt out because the financial institution has a pre-existing business relationship with the consumer.

(2) *Examples of service provider exception.* (i) A consumer has an insurance policy issued by an insurance company. The insurance company furnishes eligibility information about the consumer to its affiliated financial institution. Based on that eligibility information, the financial institution wants to make a solicitation to the consumer about its deposit products. The financial institution does not have a pre-existing business relationship with the consumer and none of the other exceptions in paragraph (c) of this section apply. The consumer has been given an opt-out notice and has elected to opt out of receiving such solicitations. The financial institution asks a service provider to send the solicitation to the consumer on its behalf. The service provider may not send the solicitation on behalf of the financial institution because, as a result of the consumer's opt-out election, the financial institution is not permitted to make the solicitation.

(ii) The same facts as in paragraph (d)(2)(i) of this section, except the consumer has been given an opt-out notice, but has not elected to opt out. The financial institution asks a service provider to send the solicitation to the consumer on its behalf. The service provider may send the solicitation on behalf of the financial institution because, as a result of the consumer's not opting out, the financial institution is permitted to make the solicitation.

(3) *Examples of consumer-initiated communications.* (i) A consumer who has a deposit account with a financial insti-

tution initiates a communication with the financial institution's credit card affiliate to request information about a credit card. The credit card affiliate may use eligibility information about the consumer it obtains from the financial institution or any other affiliate to make solicitations regarding credit card products in response to the consumer-initiated communication.

(ii) A consumer who has a deposit account with a financial institution contacts the institution to request information about how to save and invest for a child's college education without specifying the type of product in which the consumer may be interested. Information about a range of different products or services offered by the financial institution and one or more affiliates of the institution may be responsive to that communication. Such products or services may include the following: mutual funds offered by the institution's mutual fund affiliate; section 529 plans offered by the institution, its mutual fund affiliate, or another securities affiliate; or trust services offered by a different financial institution in the affiliated group. Any affiliate offering investment products or services that would be responsive to the consumer's request for information about saving and investing for a child's college education may use eligibility information to make solicitations to the consumer in response to this communication.

(iii) A credit card issuer makes a marketing call to the consumer without using eligibility information received from an affiliate. The issuer leaves a voice-mail message that invites the consumer to call a toll-free number to apply for the issuer's credit card. If the consumer calls the toll-free number to inquire about the credit card, the call is a consumer-initiated communication about a product or service and the credit card issuer may now use eligibility information it receives from its affiliates to make solicitations to the consumer.

(iv) A consumer calls a financial institution to ask about retail locations and hours, but does not request information about products or services. The institution may not use eligibility information it receives from an affiliate

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to make solicitations to the consumer about its products or services because the consumer-initiated communication does not relate to the financial institution's products or services. Thus, the use of eligibility information received from an affiliate would not be responsive to the communication and the exception does not apply.

(v) A consumer calls a financial institution to ask about retail locations and hours. The customer service representative asks the consumer if there is a particular product or service about which the consumer is seeking information. The consumer responds that the consumer wants to stop in and find out about certificates of deposit. The customer service representative offers to provide that information by telephone and mail additional information and application materials to the consumer. The consumer agrees and provides or confirms contact information for receipt of the materials to be mailed. The financial institution may use eligibility information it receives from an affiliate to make solicitations to the consumer about certificates of deposit because such solicitations would respond to the consumer-initiated communication about products or services.

(4) *Examples of consumer authorization or request for solicitations.* (i) A consumer who obtains a mortgage from a mortgage lender authorizes or requests information about homeowner's insurance offered by the mortgage lender's insurance affiliate. Such authorization or request, whether given to the mortgage lender or to the insurance affiliate, would permit the insurance affiliate to use eligibility information about the consumer it obtains from the mortgage lender or any other affiliate to make solicitations to the consumer about homeowner's insurance.

(ii) A consumer completes an online application to apply for a credit card from a credit card issuer. The issuer's online application contains a blank check box that the consumer may check to authorize or request information from the credit card issuer's affiliates. The consumer checks the box. The consumer has authorized or requested solicitations from the card issuer's affiliates.

(iii) A consumer completes an online application to apply for a credit card from a credit card issuer. The issuer's online application contains a pre-selected check box indicating that the consumer authorizes or requests information from the issuer's affiliates. The consumer does not deselect the check box. The consumer has not authorized or requested solicitations from the card issuer's affiliates.

(iv) The terms and conditions of a credit card account agreement contain preprinted boilerplate language stating that by applying to open an account the consumer authorizes or requests to receive solicitations from the credit card issuer's affiliates. The consumer has not authorized or requested solicitations from the card issuer's affiliates.

(e) *Relation to affiliate-sharing notice and opt-out.* Nothing in this subpart limits the responsibility of a person to comply with the notice and opt-out provisions of section 603(d)(2)(A)(iii) of the Act where applicable.

### § 1022.22 Scope and duration of opt-out.

(a) *Scope of opt-out—(1) In general.* Except as otherwise provided in this section, the consumer's election to opt out prohibits any affiliate covered by the opt-out notice from using eligibility information received from another affiliate as described in the notice to make solicitations to the consumer.

(2) *Continuing relationship—(i) In general.* If the consumer establishes a continuing relationship with you or your affiliate, an opt-out notice may apply to eligibility information obtained in connection with:

(A) A single continuing relationship or multiple continuing relationships that the consumer establishes with you or your affiliates, including continuing relationships established subsequent to delivery of the opt-out notice, so long as the notice adequately describes the continuing relationships covered by the opt-out; or

(B) Any other transaction between the consumer and you or your affiliates as described in the notice.

(ii) *Examples of continuing relationships.* A consumer has a continuing relationship with you or your affiliate if the consumer:

(A) Opens a deposit or investment account with you or your affiliate;

(B) Obtains a loan for which you or your affiliate owns the servicing rights;

(C) Purchases an insurance product from you or your affiliate;

(D) Holds an investment product through you or your affiliate, such as when you act or your affiliate acts as a custodian for securities or for assets in an individual retirement arrangement;

(E) Enters into an agreement or understanding with you or your affiliate whereby you or your affiliate undertakes to arrange or broker a home mortgage loan for the consumer;

(F) Enters into a lease of personal property with you or your affiliate; or

(G) Obtains financial, investment, or economic advisory services from you or your affiliate for a fee.

(3) *No continuing relationship*—(i) *In general.* If there is no continuing relationship between a consumer and you or your affiliate, and you or your affiliate obtain eligibility information about a consumer in connection with a transaction with the consumer, such as an isolated transaction or a credit application that is denied, an opt-out notice provided to the consumer only applies to eligibility information obtained in connection with that transaction.

(ii) *Examples of isolated transactions.* An isolated transaction occurs if:

(A) The consumer uses your or your affiliate's ATM to withdraw cash from an account at another financial institution; or

(B) You or your affiliate sells the consumer a cashier's check or money order, airline tickets, travel insurance, or traveler's checks in isolated transactions.

(4) *Menu of alternatives.* A consumer may be given the opportunity to choose from a menu of alternatives when electing to prohibit solicitations, such as by electing to prohibit solicitations from certain types of affiliates covered by the opt-out notice but not other types of affiliates covered by the notice, electing to prohibit solicita-

tions based on certain types of eligibility information but not other types of eligibility information, or electing to prohibit solicitations by certain methods of delivery but not other methods of delivery. However, one of the alternatives must allow the consumer to prohibit all solicitations from all of the affiliates that are covered by the notice.

(5) *Special rule for a notice following termination of all continuing relationships*—(i) *In general.* A consumer must be given a new opt-out notice if, after all continuing relationships with you or your affiliate(s) are terminated, the consumer subsequently establishes another continuing relationship with you or your affiliate(s) and the consumer's eligibility information is to be used to make a solicitation. The new opt-out notice must apply, at a minimum, to eligibility information obtained in connection with the new continuing relationship. Consistent with paragraph (b) of this section, the consumer's decision not to opt out after receiving the new opt-out notice would not override a prior opt-out election by the consumer that applies to eligibility information obtained in connection with a terminated relationship, regardless of whether the new opt-out notice applies to eligibility information obtained in connection with the terminated relationship.

(ii) *Example.* A consumer has a checking account with a financial institution that is part of an affiliated group. The consumer closes the checking account. One year after closing the checking account, the consumer opens a savings account with the same financial institution. The consumer must be given a new notice and opportunity to opt out before the financial institution's affiliates may make solicitations to the consumer using eligibility information obtained by the financial institution in connection with the new savings account relationship, regardless of whether the consumer opted out in connection with the checking account.

(b) *Duration of opt-out.* The election of a consumer to opt out must be effective for a period of at least five years (the "opt-out period") beginning when the consumer's opt-out election is received and implemented, unless the

consumer subsequently revokes the opt-out in writing or, if the consumer agrees, electronically. An opt-out period of more than five years may be established, including an opt-out period that does not expire unless revoked by the consumer.

(c) *Time of opt-out.* A consumer may opt out at any time.

**§ 1022.23 Contents of opt-out notice; consolidated and equivalent notices.**

(a) *Contents of opt-out notice—(1) In general.* A notice must be clear, conspicuous, and concise, and must accurately disclose:

(i) The name of the affiliate(s) providing the notice. If the notice is provided jointly by multiple affiliates and each affiliate shares a common name, such as “ABC,” then the notice may indicate that it is being provided by multiple companies with the ABC name or multiple companies in the ABC group or family of companies, for example, by stating that the notice is provided by “all of the ABC companies,” “the ABC banking, credit card, insurance, and securities companies,” or by listing the name of each affiliate providing the notice. But if the affiliates providing the joint notice do not all share a common name, then the notice must either separately identify each affiliate by name or identify each of the common names used by those affiliates, for example, by stating that the notice is provided by “all of the ABC and XYZ companies” or by “the ABC banking and credit card companies and the XYZ insurance companies;”

(ii) A list of the affiliates or types of affiliates whose use of eligibility information is covered by the notice, which may include companies that become affiliates after the notice is provided to the consumer. If each affiliate covered by the notice shares a common name, such as “ABC,” then the notice may indicate that it applies to multiple companies with the ABC name or multiple companies in the ABC group or family of companies, for example, by stating that the notice is provided by “all of the ABC companies,” “the ABC banking, credit card, insurance, and securities companies,” or by listing the

name of each affiliate providing the notice. But if the affiliates covered by the notice do not all share a common name, then the notice must either separately identify each covered affiliate by name or identify each of the common names used by those affiliates, for example, by stating that the notice applies to “all of the ABC and XYZ companies” or to “the ABC banking and credit card companies and the XYZ insurance companies;”

(iii) A general description of the types of eligibility information that may be used to make solicitations to the consumer;

(iv) That the consumer may elect to limit the use of eligibility information to make solicitations to the consumer;

(v) That the consumer’s election will apply for the specified period of time stated in the notice and, if applicable, that the consumer will be allowed to renew the election once that period expires;

(vi) If the notice is provided to consumers who may have previously opted out, such as if a notice is provided to consumers annually, that the consumer who has chosen to limit solicitations does not need to act again until the consumer receives a renewal notice; and

(vii) A reasonable and simple method for the consumer to opt out.

(2) *Joint relationships.* (i) If two or more consumers jointly obtain a product or service, a single opt-out notice may be provided to the joint consumers. Any of the joint consumers may exercise the right to opt out.

(ii) The opt-out notice must explain how an opt-out direction by a joint consumer will be treated. An opt-out direction by a joint consumer may be treated as applying to all of the associated joint consumers, or each joint consumer may be permitted to opt out separately. If each joint consumer is permitted to opt out separately, one of the joint consumers must be permitted to opt out on behalf of all of the joint consumers and the joint consumers must be permitted to exercise their separate rights to opt out in a single response.

(iii) It is impermissible to require *all* joint consumers to opt out before implementing *any* opt-out direction.

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(3) *Alternative contents.* If the consumer is afforded a broader right to opt out of receiving marketing than is required by this subpart, the requirements of this section may be satisfied by providing the consumer with a clear, conspicuous, and concise notice that accurately discloses the consumer's opt-out rights.

(4) *Model notices.* Model notices are provided in appendix C of this part.

(b) *Coordinated and consolidated notices.* A notice required by this subpart may be coordinated and consolidated with any other notice or disclosure required to be issued under any other provision of law by the entity providing the notice, including but not limited to the notice described in section 603(d)(2)(A)(iii) of the Act and the Gramm-Leach-Bliley Act privacy notice.

(c) *Equivalent notices.* A notice or other disclosure that is equivalent to the notice required by this subpart, and that is provided to a consumer together with disclosures required by any other provision of law, satisfies the requirements of this section.

### § 1022.24 Reasonable opportunity to opt out.

(a) *In general.* You must not use eligibility information about a consumer that you receive from an affiliate to make a solicitation to the consumer about your products or services, unless the consumer is provided a reasonable opportunity to opt out, as required by § 1022.21(a)(1)(ii) of this part.

(b) *Examples of a reasonable opportunity to opt out.* The consumer is given a reasonable opportunity to opt out if:

(1) *By mail.* The opt-out notice is mailed to the consumer. The consumer is given 30 days from the date the notice is mailed to elect to opt out by any reasonable means.

(2) *By electronic means.* (i) The opt-out notice is provided electronically to the consumer, such as by posting the notice at a Web site at which the consumer has obtained a product or service. The consumer acknowledges receipt of the electronic notice. The consumer is given 30 days after the date the consumer acknowledges receipt to elect to opt out by any reasonable means.

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(ii) The opt-out notice is provided to the consumer by email where the consumer has agreed to receive disclosures by email from the person sending the notice. The consumer is given 30 days after the email is sent to elect to opt out by any reasonable means.

(3) *At the time of an electronic transaction.* The opt-out notice is provided to the consumer at the time of an electronic transaction, such as a transaction conducted on a Web site. The consumer is required to decide, as a necessary part of proceeding with the transaction, whether to opt out before completing the transaction. There is a simple process that the consumer may use to opt out at that time using the same mechanism through which the transaction is conducted.

(4) *At the time of an in-person transaction.* The opt-out notice is provided to the consumer in writing at the time of an in-person transaction. The consumer is required to decide, as a necessary part of proceeding with the transaction, whether to opt out before completing the transaction, and is not permitted to complete the transaction without making a choice. There is a simple process that the consumer may use during the course of the in-person transaction to opt out, such as completing a form that requires consumers to write a "yes" or "no" to indicate their opt-out preference or that requires the consumer to check one of two blank check boxes; one that allows consumers to indicate that they want to opt out and one that allows consumers to indicate that they do not want to opt out.

(5) *By including in a privacy notice.* The opt-out notice is included in a Gramm-Leach-Bliley Act privacy notice. The consumer is allowed to exercise the opt-out within a reasonable period of time and in the same manner as the opt-out under that privacy notice.

### § 1022.25 Reasonable and simple methods of opting out.

(a) *In general.* You must not use eligibility information about a consumer that you receive from an affiliate to make a solicitation to the consumer about your products or services, unless the consumer is provided a reasonable

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and simple method to opt out, as required by §1022.21(a)(1)(ii) of this part.

(b) *Examples—(1) Reasonable and simple opt-out methods.* Reasonable and simple methods for exercising the opt-out right include:

(i) Designating a check-off box in a prominent position on the opt-out form;

(ii) Including a reply form and a self-addressed envelope together with the opt-out notice;

(iii) Providing an electronic means to opt out, such as a form that can be electronically mailed or processed at a Web site, if the consumer agrees to the electronic delivery of information;

(iv) Providing a toll-free telephone number that consumers may call to opt out; or

(v) Allowing consumers to exercise all of their opt-out rights described in a consolidated opt-out notice that includes the privacy opt-out under the Gramm-Leach-Bliley Act, 15 U.S.C. 6801 *et seq.*, the affiliate sharing opt-out under the Act, and the affiliate marketing opt-out under the Act, by a single method, such as by calling a single toll-free telephone number.

(2) *Opt-out methods that are not reasonable and simple.* Reasonable and simple methods for exercising an opt-out right *do not* include—

(i) Requiring the consumer to write his or her own letter;

(ii) Requiring the consumer to call or write to obtain a form for opting out, rather than including the form with the opt-out notice;

(iii) Requiring the consumer who receives the opt-out notice in electronic form only, such as through posting at a Web site, to opt out solely by paper mail or by visiting a different Web site without providing a link to that site.

(c) *Specific opt-out means.* Each consumer may be required to opt out through a specific means, as long as that means is reasonable and simple for that consumer.

### § 1022.26 Delivery of opt-out notices.

(a) *In general.* The opt-out notice must be provided so that each consumer can reasonably be expected to receive actual notice. For opt-out notices provided electronically, the notice may be provided in compliance

with either the electronic disclosure provisions in this subpart or the provisions in section 101 of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*

(b) *Examples of reasonable expectation of actual notice.* A consumer may reasonably be expected to receive actual notice if the affiliate providing the notice:

(1) Hand-delivers a printed copy of the notice to the consumer;

(2) Mails a printed copy of the notice to the last known mailing address of the consumer;

(3) Provides a notice by email to a consumer who has agreed to receive electronic disclosures by email from the affiliate providing the notice; or

(4) Posts the notice on the Web site at which the consumer obtained a product or service electronically and requires the consumer to acknowledge receipt of the notice.

(c) *Examples of no reasonable expectation of actual notice.* A consumer may *not* reasonably be expected to receive actual notice if the affiliate providing the notice:

(1) Only posts the notice on a sign in a branch or office or generally publishes the notice in a newspaper;

(2) Sends the notice via email to a consumer who has not agreed to receive electronic disclosures by email from the affiliate providing the notice; or

(3) Posts the notice on a Web site without requiring the consumer to acknowledge receipt of the notice.

### § 1022.27 Renewal of opt-out.

(a) *Renewal notice and opt-out requirement—(1) In general.* After the opt-out period expires, you may not make solicitations based on eligibility information you receive from an affiliate to a consumer who previously opted out, unless:

(i) The consumer has been given a renewal notice that complies with the requirements of this section and §§ 1022.24 through 1022.26 of this part, and a reasonable opportunity and a reasonable and simple method to renew the opt-out, and the consumer does not renew the opt-out; or

(ii) An exception in § 1022.21(c) of this part applies.

(2) *Renewal period.* Each opt-out renewal must be effective for a period of at least five years as provided in § 1022.22(b) of this part.

(3) *Affiliates who may provide the notice.* The notice required by this paragraph must be provided:

(i) By the affiliate that provided the previous opt-out notice, or its successor; or

(ii) As part of a joint renewal notice from two or more members of an affiliated group of companies, or their successors, that jointly provided the previous opt-out notice.

(b) *Contents of renewal notice.* The renewal notice must be clear, conspicuous, and concise, and must accurately disclose:

(1) The name of the affiliate(s) providing the notice. If the notice is provided jointly by multiple affiliates and each affiliate shares a common name, such as “ABC,” then the notice may indicate that it is being provided by multiple companies with the ABC name or multiple companies in the ABC group or family of companies, for example, by stating that the notice is provided by “all of the ABC companies,” “the ABC banking, credit card, insurance, and securities companies,” or by listing the name of each affiliate providing the notice. But if the affiliates providing the joint notice do not all share a common name, then the notice must either separately identify each affiliate by name or identify each of the common names used by those affiliates, for example, by stating that the notice is provided by “all of the ABC and XYZ companies” or by “the ABC banking and credit card companies and the XYZ insurance companies”;

(2) A list of the affiliates or types of affiliates whose use of eligibility information is covered by the notice, which may include companies that become affiliates after the notice is provided to the consumer. If each affiliate covered by the notice shares a common name, such as “ABC,” then the notice may indicate that it applies to multiple companies with the ABC name or multiple companies in the ABC group or family of companies, for example, by stating that the notice is provided by “all of the ABC companies,” “the ABC

banking, credit card, insurance, and securities companies,” or by listing the name of each affiliate providing the notice. But if the affiliates covered by the notice do not all share a common name, then the notice must either separately identify each covered affiliate by name or identify each of the common names used by those affiliates, for example, by stating that the notice applies to “all of the ABC and XYZ companies” or to “the ABC banking and credit card companies and the XYZ insurance companies;”

(3) A general description of the types of eligibility information that may be used to make solicitations to the consumer;

(4) That the consumer previously elected to limit the use of certain information to make solicitations to the consumer;

(5) That the consumer’s election has expired or is about to expire;

(6) That the consumer may elect to renew the consumer’s previous election;

(7) If applicable, that the consumer’s election to renew will apply for the specified period of time stated in the notice and that the consumer will be allowed to renew the election once that period expires; and

(8) A reasonable and simple method for the consumer to opt out.

(c) *Timing of the renewal notice*—(1) *In general.* A renewal notice may be provided to the consumer either:

(i) A reasonable period of time before the expiration of the opt-out period; or

(ii) Any time after the expiration of the opt-out period but before solicitations that would have been prohibited by the expired opt-out are made to the consumer.

(2) *Combination with annual privacy notice.* If you provide an annual privacy notice under the Gramm-Leach-Bliley Act, 15 U.S.C. 6801 *et seq.*, providing a renewal notice with the last annual privacy notice provided to the consumer before expiration of the opt-out period is a reasonable period of time before expiration of the opt-out in all cases.

(d) *No effect on opt-out period.* An opt-out period may not be shortened by sending a renewal notice to the consumer before expiration of the opt-out

period, even if the consumer does not renew the opt out.

### Subpart D—Medical Information

#### § 1022.30 Obtaining or using medical information in connection with a determination of eligibility for credit.

(a) *Scope.* This section applies to any person that participates as a creditor in a transaction, except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 137.

(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.

(c) *Rule of construction for obtaining and using unsolicited medical information—(1) In general.* A creditor does not obtain medical information in violation of the prohibition if it receives

medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit without specifically requesting medical information.

(2) *Use of unsolicited medical information.* A creditor that receives unsolicited medical information in the manner described in paragraph (c)(1) of this section may use that information in connection with any determination of the consumer's eligibility, or continued eligibility, for credit to the extent the creditor can rely on at least one of the exceptions in § 1022.30(d) or (e).

(3) *Examples.* A creditor does not obtain medical information in violation of the prohibition if, for example:

(i) In response to a general question regarding a consumer's debts or expenses, the creditor receives information that the consumer owes a debt to a hospital.

(ii) In a conversation with the creditor's loan officer, the consumer informs the creditor that the consumer has a particular medical condition.

(iii) In connection with a consumer's application for an extension of credit, the creditor requests a consumer report from a consumer reporting agency and receives medical information in the consumer report furnished by the agency even though the creditor did not specifically request medical information from the consumer reporting agency.

(d) *Financial information exception for obtaining and using medical information—(1) In general.* A creditor may obtain and use medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit so long as:

(i) The information is the type of information routinely used in making credit eligibility determinations, such as information relating to debts, expenses, income, benefits, assets, collateral, or the purpose of the loan, including the use of proceeds;

(ii) The creditor uses the medical information in a manner and to an extent that is no less favorable than it would use comparable information that is not medical information in a credit transaction; and

(iii) The creditor does not take the consumer's physical, mental, or behavioral health, condition or history, type of treatment, or prognosis into account as part of any such determination.

(2) *Examples—(i) Examples of the types of information routinely used in making credit eligibility determinations.* Paragraph (d)(1)(i) of this section permits a creditor, for example, to obtain and use information about:

(A) The dollar amount, repayment terms, repayment history, and similar information regarding medical debts to calculate, measure, or verify the repayment ability of the consumer, the use of proceeds, or the terms for granting credit;

(B) The value, condition, and lien status of a medical device that may serve as collateral to secure a loan;

(C) The dollar amount and continued eligibility for disability income, workers' compensation income, or other benefits related to health or a medical condition that is relied on as a source of repayment; or

(D) The identity of creditors to whom outstanding medical debts are owed in connection with an application for credit, including but not limited to, a transaction involving the consolidation of medical debts.

(ii) *Examples of uses of medical information consistent with the exception.* (A) A consumer includes on an application for credit information about two \$20,000 debts. One debt is to a hospital; the other debt is to a retailer. The creditor contacts the hospital and the retailer to verify the amount and payment status of the debts. The creditor learns that both debts are more than 90 days past due. Any two debts of this size that are more than 90 days past due would disqualify the consumer under the creditor's established underwriting criteria. The creditor denies the application on the basis that the consumer has a poor repayment history on outstanding debts. The creditor has used medical information in a manner and to an extent no less favorable than it would use comparable non-medical information.

(B) A consumer indicates on an application for a \$200,000 mortgage loan that she receives \$15,000 in long-term disability income each year from her

former employer and has no other income. Annual income of \$15,000, regardless of source, would not be sufficient to support the requested amount of credit. The creditor denies the application on the basis that the projected debt-to-income ratio of the consumer does not meet the creditor's underwriting criteria. The creditor has used medical information in a manner and to an extent that is no less favorable than it would use comparable non-medical information.

(C) A consumer includes on an application for a \$10,000 home equity loan that he has a \$50,000 debt to a medical facility that specializes in treating a potentially terminal disease. The creditor contacts the medical facility to verify the debt and obtain the repayment history and current status of the loan. The creditor learns that the debt is current. The applicant meets the income and other requirements of the creditor's underwriting guidelines. The creditor grants the application. The creditor has used medical information in accordance with the exception.

(iii) *Examples of uses of medical information inconsistent with the exception.*

(A) A consumer applies for \$25,000 of credit and includes on the application information about a \$50,000 debt to a hospital. The creditor contacts the hospital to verify the amount and payment status of the debt, and learns that the debt is current and that the consumer has no delinquencies in her repayment history. If the existing debt were instead owed to a retail department store, the creditor would approve the application and extend credit based on the amount and repayment history of the outstanding debt. The creditor, however, denies the application because the consumer is indebted to a hospital. The creditor has used medical information, here the identity of the medical creditor, in a manner and to an extent that is less favorable than it would use comparable non-medical information.

(B) A consumer meets with a loan officer of a creditor to apply for a mortgage loan. While filling out the loan application, the consumer informs the loan officer orally that she has a potentially terminal disease. The consumer

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meets the creditor's established requirements for the requested mortgage loan. The loan officer recommends to the credit committee that the consumer be denied credit because the consumer has that disease. The credit committee follows the loan officer's recommendation and denies the application because the consumer has a potentially terminal disease. The creditor has used medical information in a manner inconsistent with the exception by taking into account the consumer's physical, mental, or behavioral health, condition, or history, type of treatment, or prognosis as part of a determination of eligibility or continued eligibility for credit.

(C) A consumer who has an apparent medical condition, such as a consumer who uses a wheelchair or an oxygen tank, meets with a loan officer to apply for a home equity loan. The consumer meets the creditor's established requirements for the requested home equity loan and the creditor typically does not require consumers to obtain a debt cancellation contract, debt suspension agreement, or credit insurance product in connection with such loans. However, based on the consumer's apparent medical condition, the loan officer recommends to the credit committee that credit be extended to the consumer only if the consumer obtains a debt cancellation contract, debt suspension agreement, or credit insurance product from a nonaffiliated third party. The credit committee agrees with the loan officer's recommendation. The loan officer informs the consumer that the consumer must obtain a debt cancellation contract, debt suspension agreement, or credit insurance product from a nonaffiliated third party to qualify for the loan. The consumer obtains one of these products and the creditor approves the loan. The creditor has used medical information in a manner inconsistent with the exception by taking into account the consumer's physical, mental, or behavioral health, condition, or history, type of treatment, or prognosis in setting conditions on the consumer's eligibility for credit.

(e) *Specific exceptions for obtaining and using medical information*—(1) *In general.* A creditor may obtain and use medical

information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit:

(i) To determine whether the use of a power of attorney or legal representative that is triggered by a medical condition or event is necessary and appropriate or whether the consumer has the legal capacity to contract when a person seeks to exercise a power of attorney or act as legal representative for a consumer based on an asserted medical condition or event;

(ii) To comply with applicable requirements of local, state, or Federal laws;

(iii) To determine, at the consumer's request, whether the consumer qualifies for a legally permissible special credit program or credit-related assistance program that is:

(A) Designed to meet the special needs of consumers with medical conditions; and

(B) Established and administered pursuant to a written plan that:

(1) Identifies the class of persons that the program is designed to benefit; and

(2) Sets forth the procedures and standards for extending credit or providing other credit-related assistance under the program;

(iv) To the extent necessary for purposes of fraud prevention or detection;

(v) In the case of credit for the purpose of financing medical products or services, to determine and verify the medical purpose of a loan and the use of proceeds;

(vi) Consistent with safe and sound practices, if the consumer or the consumer's legal representative specifically requests that the creditor use medical information in determining the consumer's eligibility, or continued eligibility, for credit, to accommodate the consumer's particular circumstances, and such request is documented by the creditor;

(vii) Consistent with safe and sound practices, to determine whether the provisions of a forbearance practice or program that is triggered by a medical condition or event apply to a consumer;

(viii) To determine the consumer's eligibility for, the triggering of, or the

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reactivation of a debt cancellation contract or debt suspension agreement if a medical condition or event is a triggering event for the provision of benefits under the contract or agreement; or

(ix) To determine the consumer's eligibility for, the triggering of, or the reactivation of a credit insurance product if a medical condition or event is a triggering event for the provision of benefits under the product.

(2) *Example of determining eligibility for a special credit program or credit assistance program.* A not-for-profit organization establishes a credit assistance program pursuant to a written plan that is designed to assist disabled veterans in purchasing homes by subsidizing the down payment for the home purchase mortgage loans of qualifying veterans. The organization works through mortgage lenders and requires mortgage lenders to obtain medical information about the disability of any consumer that seeks to qualify for the program, use that information to verify the consumer's eligibility for the program, and forward that information to the organization. A consumer who is a veteran applies to a creditor for a home purchase mortgage loan. The creditor informs the consumer about the credit assistance program for disabled veterans and the consumer seeks to qualify for the program. Assuming that the program complies with all applicable law, including applicable fair lending laws, the creditor may obtain and use medical information about the medical condition and disability, if any, of the consumer to determine whether the consumer qualifies for the credit assistance program.

(3) *Examples of verifying the medical purpose of the loan or the use of proceeds.*

(i) If a consumer applies for \$10,000 of credit for the purpose of financing vision correction surgery, the creditor may verify with the surgeon that the procedure will be performed. If the surgeon reports that surgery will not be performed on the consumer, the creditor may use that medical information to deny the consumer's application for credit, because the loan would not be used for the stated purpose.

(ii) If a consumer applies for \$10,000 of credit for the purpose of financing cos-

metic surgery, the creditor may confirm the cost of the procedure with the surgeon. If the surgeon reports that the cost of the procedure is \$5,000, the creditor may use that medical information to offer the consumer only \$5,000 of credit.

(iii) A creditor has an established medical loan program for financing particular elective surgical procedures. The creditor receives a loan application from a consumer requesting \$10,000 of credit under the established loan program for an elective surgical procedure. The consumer indicates on the application that the purpose of the loan is to finance an elective surgical procedure not eligible for funding under the guidelines of the established loan program. The creditor may deny the consumer's application because the purpose of the loan is not for a particular procedure funded by the established loan program.

(4) *Examples of obtaining and using medical information at the request of the consumer.* (i) If a consumer applies for a loan and specifically requests that the creditor consider the consumer's medical disability at the relevant time as an explanation for adverse payment history information in his credit report, the creditor may consider such medical information in evaluating the consumer's willingness and ability to repay the requested loan to accommodate the consumer's particular circumstances, consistent with safe and sound practices. The creditor may also decline to consider such medical information to accommodate the consumer, but may evaluate the consumer's application in accordance with its otherwise applicable underwriting criteria. The creditor may not deny the consumer's application or otherwise treat the consumer less favorably because the consumer specifically requested a medical accommodation, if the creditor would have extended the credit or treated the consumer more favorably under the creditor's otherwise applicable underwriting criteria.

(ii) If a consumer applies for a loan by telephone and explains that his income has been and will continue to be interrupted on account of a medical condition and that he expects to repay the loan by liquidating assets, the

creditor may, but is not required to, evaluate the application using the sale of assets as the primary source of repayment, consistent with safe and sound practices, provided that the creditor documents the consumer's request by recording the oral conversation or making a notation of the request in the consumer's file.

(iii) If a consumer applies for a loan and the application form provides a space where the consumer may provide any other information or special circumstances, whether medical or non-medical, that the consumer would like the creditor to consider in evaluating the consumer's application, the creditor may use medical information provided by the consumer in that space on that application to accommodate the consumer's application for credit, consistent with safe and sound practices, or may disregard that information.

(iv) If a consumer specifically requests that the creditor use medical information in determining the consumer's eligibility, or continued eligibility, for credit and provides the creditor with medical information for that purpose, and the creditor determines that it needs additional information regarding the consumer's circumstances, the creditor may request, obtain, and use additional medical information about the consumer as necessary to verify the information provided by the consumer or to determine whether to make an accommodation for the consumer. The consumer may decline to provide additional information, withdraw the request for an accommodation, and have the application considered under the creditor's otherwise applicable underwriting criteria.

(v) If a consumer completes and signs a credit application that is not for medical purpose credit and the application contains boilerplate language that routinely requests medical information from the consumer or that indicates that by applying for credit the consumer authorizes or consents to the creditor obtaining and using medical information in connection with a determination of the consumer's eligibility, or continued eligibility, for credit, the consumer has not specifically requested that the creditor obtain and use medical information to

accommodate the consumer's particular circumstances.

(5) *Example of a forbearance practice or program.* After an appropriate safety and soundness review, a creditor institutes a program that allows consumers who are or will be hospitalized to defer payments as needed for up to three months, without penalty, if the credit account has been open for more than one year and has not previously been in default, and the consumer provides confirming documentation at an appropriate time. A consumer is hospitalized and does not pay her bill for a particular month. This consumer has had a credit account with the creditor for more than one year and has not previously been in default. The creditor attempts to contact the consumer and speaks with the consumer's adult child, who is not the consumer's legal representative. The adult child informs the creditor that the consumer is hospitalized and is unable to pay the bill at that time. The creditor defers payments for up to three months, without penalty, for the hospitalized consumer and sends the consumer a letter confirming this practice and the date on which the next payment will be due. The creditor has obtained and used medical information to determine whether the provisions of a medically-triggered forbearance practice or program apply to a consumer.

**§ 1022.31 Limits on redisclosure of information.**

(a) *Scope.* This section applies to any person, except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 137.

(b) *Limits on redisclosure.* If a person described in paragraph (a) of this section receives medical information about a consumer from a consumer reporting agency or its affiliate, the person must not disclose that information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

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**§ 1022.32 Sharing medical information with affiliates.**

(a) *Scope.* This section applies to any person, except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 137.

(b) *In general.* The exclusions from the term “consumer report” in section 603(d)(2) of the Act that allow the sharing of information with affiliates do not apply to a person described in paragraph (a) of this section if that person communicates to an affiliate:

- (1) Medical information;
- (2) An individualized list or description based on the payment transactions of the consumer for medical products or services; or
- (3) An aggregate list of identified consumers based on payment transactions for medical products or services.

(c) *Exceptions.* A person described in paragraph (a) of this section may rely on the exclusions from the term “consumer report” in section 603(d)(2) of the Act to communicate the information in paragraph (b) of this section to an affiliate:

- (1) In connection with the business of insurance or annuities (including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners, as in effect on January 1, 2003);
- (2) For any purpose permitted without authorization under the regulations promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- (3) For any purpose referred to in section 1179 of HIPAA;
- (4) For any purpose described in section 502(e) of the Gramm-Leach-Bliley Act;
- (5) In connection with a determination of the consumer’s eligibility, or continued eligibility, for credit consistent with § 1022.30 of this part; or
- (6) As otherwise permitted by order of the Bureau.

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**Subpart E—Duties of Furnishers of Information**

**§ 1022.40 Scope.**

Subpart E of this part applies to any person that furnishes information to a consumer reporting agency, except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376.

**§ 1022.41 Definitions.**

For purposes of this subpart and appendix E of this part, the following definitions apply:

(a) *Accuracy* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer correctly:

- (1) Reflects the terms of and liability for the account or other relationship;
- (2) Reflects the consumer’s performance and other conduct with respect to the account or other relationship; and
- (3) Identifies the appropriate consumer.

(b) *Direct dispute* means a dispute submitted directly to a furnisher (including a furnisher that is a debt collector) by a consumer concerning the accuracy of any information contained in a consumer report and pertaining to an account or other relationship that the furnisher has or had with the consumer.

(c) *Furnisher* means an entity that furnishes information relating to consumers to one or more consumer reporting agencies for inclusion in a consumer report. An entity is not a furnisher when it:

- (1) Provides information to a consumer reporting agency solely to obtain a consumer report in accordance with sections 604(a) and (f) of the FCRA;
- (2) Is acting as a “consumer reporting agency” as defined in section 603(f) of the FCRA;
- (3) Is a consumer to whom the furnished information pertains; or
- (4) Is a neighbor, friend, or associate of the consumer, or another individual with whom the consumer is acquainted or who may have knowledge about the

consumer, and who provides information about the consumer's character, general reputation, personal characteristics, or mode of living in response to a specific request from a consumer reporting agency.

(d) *Integrity* means that information that a furnisher provides to a consumer reporting agency about an account or other relationship with the consumer:

(1) Is substantiated by the furnisher's records at the time it is furnished;

(2) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; and

(3) Includes the information in the furnisher's possession about the account or other relationship that the Bureau has:

(i) Determined that the absence of which would likely be materially misleading in evaluating a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

(ii) Listed in section I.(b)(2)(iii) of appendix E of this part.

**§ 1022.42 Reasonable policies and procedures concerning the accuracy and integrity of furnished information.**

(a) *Policies and procedures.* Each furnisher must establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency. The policies and procedures must be appropriate to the nature, size, complexity, and scope of each furnisher's activities.

(b) *Guidelines.* Each furnisher must consider the guidelines in appendix E of this part in developing its policies and procedures required by this section, and incorporate those guidelines that are appropriate.

(c) *Reviewing and updating policies and procedures.* Each furnisher must review its policies and procedures required by this section periodically and update them as necessary to ensure their continued effectiveness.

**§ 1022.43 Direct disputes.**

(a) *General rule.* Except as otherwise provided in this section, a furnisher must conduct a reasonable investigation of a direct dispute if it relates to:

(1) The consumer's liability for a credit account or other debt with the furnisher, such as direct disputes relating to whether there is or has been identity theft or fraud against the consumer, whether there is individual or joint liability on an account, or whether the consumer is an authorized user of a credit account;

(2) The terms of a credit account or other debt with the furnisher, such as direct disputes relating to the type of account, principal balance, scheduled payment amount on an account, or the amount of the credit limit on an open-end account;

(3) The consumer's performance or other conduct concerning an account or other relationship with the furnisher, such as direct disputes relating to the current payment status, high balance, date a payment was made, the amount of a payment made, or the date an account was opened or closed; or

(4) Any other information contained in a consumer report regarding an account or other relationship with the furnisher that bears on the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Exceptions.* The requirements of paragraph (a) of this section do not apply to a furnisher if:

(1) The direct dispute relates to:

(i) The consumer's identifying information (other than a direct dispute relating to a consumer's liability for a credit account or other debt with the furnisher, as provided in paragraph (a)(1) of this section) such as name(s), date of birth, Social Security number, telephone number(s), or address(es);

(ii) The identity of past or present employers;

(iii) Inquiries or requests for a consumer report;

(iv) Information derived from public records, such as judgments, bankruptcies, liens, and other legal matters (unless provided by a furnisher with an account or other relationship with the consumer);

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(v) Information related to fraud alerts or active duty alerts; or

(vi) Information provided to a consumer reporting agency by another furnisher; or

(2) The furnisher has a reasonable belief that the direct dispute is submitted by, is prepared on behalf of the consumer by, or is submitted on a form supplied to the consumer by, a credit repair organization, as defined in 15 U.S.C. 1679a(3), or an entity that would be a credit repair organization, but for 15 U.S.C. 1679a(3)(B)(i).

(c) *Direct dispute address.* A furnisher is required to investigate a direct dispute only if a consumer submits a dispute notice to the furnisher at:

(1) The address of a furnisher provided by a furnisher and set forth on a consumer report relating to the consumer;

(2) An address clearly and conspicuously specified by the furnisher for submitting direct disputes that is provided to the consumer in writing or electronically (if the consumer has agreed to the electronic delivery of information from the furnisher); or

(3) Any business address of the furnisher if the furnisher has not so specified and provided an address for submitting direct disputes under paragraphs (c)(1) or (2) of this section.

(d) *Direct dispute notice contents.* A dispute notice must include:

(1) Sufficient information to identify the account or other relationship that is in dispute, such as an account number and the name, address, and telephone number of the consumer, if applicable;

(2) The specific information that the consumer is disputing and an explanation of the basis for the dispute; and

(3) All supporting documentation or other information reasonably required by the furnisher to substantiate the basis of the dispute. This documentation may include, for example: a copy of the relevant portion of the consumer report that contains the allegedly inaccurate information; a police report; a fraud or identity theft affidavit; a court order; or account statements.

(e) *Duty of furnisher after receiving a direct dispute notice.* After receiving a dispute notice from a consumer pursu-

ant to paragraphs (c) and (d) of this section, the furnisher must:

(1) Conduct a reasonable investigation with respect to the disputed information;

(2) Review all relevant information provided by the consumer with the dispute notice;

(3) Complete its investigation of the dispute and report the results of the investigation to the consumer before the expiration of the period under section 611(a)(1) of the FCRA (15 U.S.C. 1681i(a)(1)) within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section; and

(4) If the investigation finds that the information reported was inaccurate, promptly notify each consumer reporting agency to which the furnisher provided inaccurate information of that determination and provide to the consumer reporting agency any correction to that information that is necessary to make the information provided by the furnisher accurate.

(f) *Frivolous or irrelevant disputes.* (1) A furnisher is not required to investigate a direct dispute if the furnisher has reasonably determined that the dispute is frivolous or irrelevant. A dispute qualifies as frivolous or irrelevant if:

(i) The consumer did not provide sufficient information to investigate the disputed information as required by paragraph (d) of this section;

(ii) The direct dispute is substantially the same as a dispute previously submitted by or on behalf of the consumer, either directly to the furnisher or through a consumer reporting agency, with respect to which the furnisher has already satisfied the applicable requirements of the Act or this section; provided, however, that a direct dispute is not substantially the same as a dispute previously submitted if the dispute includes information listed in paragraph (d) of this section that had not previously been provided to the furnisher; or

(iii) The furnisher is not required to investigate the direct dispute because one or more of the exceptions listed in paragraph (b) of this section applies.

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(2) *Notice of determination.* Upon making a determination that a dispute is frivolous or irrelevant, the furnisher must notify the consumer of the determination not later than five business days after making the determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the furnisher.

(3) *Contents of notice of determination that a dispute is frivolous or irrelevant.* A notice of determination that a dispute is frivolous or irrelevant must include the reasons for such determination and identify any information required to investigate the disputed information, which notice may consist of a standardized form describing the general nature of such information.

### Subpart F—Duties of Users Regarding Obtaining and Using Consumer Reports

#### §§ 1022.50–1022.53 [Reserved]

#### § 1022.54 Duties of users making written firm offers of credit or insurance based on information contained in consumer files

(a) *Scope.* This subpart applies to any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, and that is provided to that person under section 604(c)(1)(B) of the FCRA (15 U.S.C. 1681b(c)(1)(B)), except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 137.

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

(1) *Simple and easy to understand* means:

(i) A layered format as described in paragraph (c) of this section;

(ii) Plain language designed to be understood by ordinary consumers; and

(iii) Use of clear and concise sentences, paragraphs, and sections.

(iv) *Examples.* For purposes of this part, examples of factors to be considered in determining whether a statement is in plain language and uses

clear and concise sentences, paragraphs, and sections include:

(A) Use of short explanatory sentences;

(B) Use of definite, concrete, everyday words;

(C) Use of active voice;

(D) Avoidance of multiple negatives;

(E) Avoidance of legal and technical business terminology;

(F) Avoidance of explanations that are imprecise and reasonably subject to different interpretations; and

(G) Use of language that is not misleading.

(2) *Principal promotional document* means the document designed to be seen first by the consumer, such as the cover letter.

(c) *Prescreen opt-out notice.* Any person who uses a consumer report on any consumer in connection with any credit or insurance transaction that is not initiated by the consumer, and that is provided to that person under section 604(c)(1)(B) of the FCRA (15 U.S.C. 1681b(c)(1)(B)), shall, with each written solicitation made to the consumer about the transaction, provide the consumer with the following statement, consisting of a short portion and a long portion, which shall be in the same language as the offer of credit or insurance:

(1) *Short notice.* The short notice shall be a clear and conspicuous, and simple and easy to understand statement as follows:

(i) *Content.* The short notice shall state that the consumer has the right to opt out of receiving prescreened solicitations, and shall provide the toll-free number the consumer can call to exercise that right. The short notice also shall direct the consumer to the existence and location of the long notice, and shall state the heading for the long notice. The short notice shall not contain any other information.

(ii) *Form.* The short notice shall be:

(A) In a type size that is larger than the type size of the principal text on the same page, but in no event smaller than 12 point type, or if provided by electronic means, then reasonable steps shall be taken to ensure that the type size is larger than the type size of the principal text on the same page;

(B) On the front side of the first page of the principal promotional document in the solicitation, or, if provided electronically, on the same page and in close proximity to the principal marketing message;

(C) Located on the page and in a format so that the statement is distinct from other text, such as inside a border; and

(D) In a type style that is distinct from the principal type style used on the same page, such as bolded, italicized, underlined, and/or in a color that contrasts with the color of the principal text on the page, if the solicitation is in more than one color.

(2) *Long notice.* The long notice shall be a clear and conspicuous, and simple and easy to understand statement as follows:

(i) *Content.* The long notice shall state the information required by section 615(d) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)). The long notice shall not include any other information that interferes with, detracts from, contradicts, or otherwise undermines the purpose of the notice.

(ii) *Form.* The long notice shall:

(A) Appear in the solicitation;

(B) Be in a type size that is no smaller than the type size of the principal text on the same page, and, for solicitations provided other than by electronic means, the type size shall in no event be smaller than 8 point type;

(C) Begin with a heading in capital letters and underlined, and identifying the long notice as the “PRESCREEN&OPT-OUT NOTICE;”

(D) Be in a type style that is distinct from the principal type style used on the same page, such as bolded, italicized, underlined, and/or in a color that contrasts with the color of the principal text on the page, if the solicitation is in more than one color; and

(E) Be set apart from other text on the page, such as by including a blank line above and below the statement, and by indenting both the left and right margins from other text on the page.

§§ 1022.55–1022.59 [Reserved]

### Subpart G [Reserved]

### Subpart H—Duties of Users Regarding Risk-Based Pricing

#### § 1022.70 Scope.

(a) *Coverage*—(1) *In general.* This subpart applies to any person, except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 137, that both:

(i) Uses a consumer report in connection with an application for, or a grant, extension, or other provision of, credit to a consumer that is primarily for personal, family, or household purposes; and

(ii) Based in whole or in part on the consumer report, grants, extends, or otherwise provides credit to the consumer on material terms that are materially less favorable than the most favorable material terms available to a substantial proportion of consumers from or through that person.

(2) *Business credit excluded.* This subpart does not apply to an application for, or a grant, extension, or other provision of, credit to a consumer or to any other applicant primarily for a business purpose.

(b) *Enforcement.* The provisions of this subpart will be enforced in accordance with the enforcement authority set forth in sections 621(a) and (b) of the FCRA.

#### § 1022.71 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Adverse action* has the same meaning as in 15 U.S.C. 1681a(k)(1)(A).

(b) *Annual percentage rate* has the same meaning as in 12 CFR 1026.14(b) with respect to an open-end credit plan and as in 12 CFR 1026.22 with respect to closed-end credit.

(c) *Closed-end credit* has the same meaning as in 12 CFR 1026.2(a)(10).

(d) *Consumer* has the same meaning as in 15 U.S.C. 1681a(c).

(e) *Consummation* has the same meaning as in 12 CFR 1026.2(a)(13).

(f) *Consumer report* has the same meaning as in 15 U.S.C. 1681a(d).

(g) *Consumer reporting agency* has the same meaning as in 15 U.S.C. 1681a(f).

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

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

(j) *Credit card* has the same meaning as in 15 U.S.C. 1681a(r)(2).

(k) *Credit card issuer* has the same meaning as *card issuer*, as defined in 15 U.S.C. 1681a(r)(1)(A).

(l) *Credit score* has the same meaning as in 15 U.S.C. 1681g(f)(2)(A).

(m) *Firm offer of credit* has the same meaning as in 15 U.S.C. 1681a(1).

(n) *Material terms* means:

(1)(i) Except as otherwise provided in paragraphs (n)(1)(ii) and (n)(3) of this section, in the case of credit extended under an open-end credit plan, the annual percentage rate required to be disclosed under 12 CFR 1026.6(a)(1)(ii) or 12 CFR 1026.6(b)(2)(i), excluding any temporary initial rate that is lower than the rate that will apply after the temporary rate expires, any penalty rate that will apply upon the occurrence of one or more specific events, such as a late payment or an extension of credit that exceeds the credit limit, and any fixed annual percentage rate option for a home equity line of credit;

(ii) In the case of a credit card (other than a credit card that is used to access a home equity line of credit or a charge card), the annual percentage rate required to be disclosed under 12 CFR 1026.6(b)(2)(i) that applies to purchases (“purchase annual percentage rate”) and no other annual percentage rate, or in the case of a credit card that has no purchase annual percentage rate, the annual percentage rate that varies based on information in a consumer report and that has the most significant financial impact on consumers;

(2) In the case of closed-end credit, the annual percentage rate required to be disclosed under 12 CFR 1026.17(c) and 1026.18(e); and

(3) In the case of credit for which there is no annual percentage rate, the financial term that varies based on information in a consumer report and that has the most significant financial impact on consumers, such as a deposit required in connection with credit extended by a telephone company or utility or an annual membership fee for a charge card.

(o) *Materially less favorable* means, when applied to material terms, that the terms granted, extended, or otherwise provided to a consumer differ from the terms granted, extended, or otherwise provided to another consumer from or through the same person such that the cost of credit to the first consumer would be significantly greater than the cost of credit granted, extended, or otherwise provided to the other consumer. For purposes of this definition, factors relevant to determining the significance of a difference in cost include the type of credit product, the term of the credit extension, if any, and the extent of the difference between the material terms granted, extended, or otherwise provided to the two consumers.

(p) *Open-end credit plan* has the same meaning as in 15 U.S.C. 1602(i), as interpreted by the Bureau in Regulation Z (12 CFR part 1026) and the Official Interpretations to Regulation Z (Supplement I to 12 CFR part 1026).

(q) *Person* has the same meaning as in 15 U.S.C. 1681a(b).

### § 1022.72 General requirements for risk-based pricing notices.

(a) *In general.* Except as otherwise provided in this subpart, a person must provide to a consumer a notice (“risk-based pricing notice”) in the form and manner required by this subpart if the person both:

(1) Uses a consumer report in connection with an application for, or a grant, extension, or other provision of, credit to that consumer that is primarily for personal, family, or household purposes; and

(2) Based in whole or in part on the consumer report, grants, extends, or otherwise provides credit to that consumer on material terms that are materially less favorable than the most favorable material terms available to a substantial proportion of consumers from or through that person.

(b) *Determining which consumers must receive a notice.* A person may determine whether paragraph (a) of this section applies by directly comparing the material terms offered to each consumer and the material terms offered to other consumers for a specific type of credit product. For purposes of this

section, a “specific type of credit product” means one or more credit products with similar features that are designed for similar purposes. Examples of a specific type of credit product include student loans, unsecured credit cards, secured credit cards, new automobile loans, used automobile loans, fixed-rate mortgage loans, and variable-rate mortgage loans. As an alternative to making this direct comparison, a person may make the determination by using one of the following methods:

(1) *Credit score proxy method*—(i) *In general*. A person that sets the material terms of credit granted, extended, or otherwise provided to a consumer, based in whole or in part on a credit score, may comply with the requirements of paragraph (a) of this section by:

(A) Determining the credit score (hereafter referred to as the “cutoff score”) that represents the point at which approximately 40 percent of the consumers to whom it grants, extends, or provides credit have higher credit scores and approximately 60 percent of the consumers to whom it grants, extends, or provides credit have lower credit scores; and

(B) Providing a risk-based pricing notice to each consumer to whom it grants, extends, or provides credit whose credit score is lower than the cutoff score.

(ii) *Alternative to the 40/60 cutoff score determination*. In the case of credit that has been granted, extended, or provided on the most favorable material terms to more than 40 percent of consumers, a person may, at its option, set its cutoff score at a point at which the approximate percentage of consumers who historically have been granted, extended, or provided credit on material terms other than the most favorable terms would receive risk-based pricing notices under this section.

(iii) *Determining the cutoff score*—(A) *Sampling approach*. A person that currently uses risk-based pricing with respect to the credit products it offers must calculate the cutoff score by considering the credit scores of all or a representative sample of the consumers to whom it has granted, ex-

tended, or provided credit for a specific type of credit product.

(B) *Secondary source approach in limited circumstances*. A person that is a new entrant into the credit business, introduces new credit products, or starts to use risk-based pricing with respect to the credit products it currently offers may initially determine the cutoff score based on information derived from appropriate market research or relevant third-party sources for a specific type of credit product, such as research or data from companies that develop credit scores. A person that acquires a credit portfolio as a result of a merger or acquisition may determine the cutoff score based on information from the party which it acquired, with which it merged, or from which it acquired the portfolio.

(C) *Recalculation of cutoff scores*. A person using the credit score proxy method must recalculate its cutoff score(s) no less than every two years in the manner described in paragraph (b)(1)(iii)(A) of this section. A person using the credit score proxy method using market research, third-party data, or information from a party which it acquired, with which it merged, or from which it acquired the portfolio as permitted by paragraph (b)(1)(iii)(B) of this section generally must calculate a cutoff score(s) based on the scores of its own consumers in the manner described in paragraph (b)(1)(iii)(A) of this section within one year after it begins using a cutoff score derived from market research, third-party data, or information from a party which it acquired, with which it merged, or from which it acquired the portfolio. If such a person does not grant, extend, or provide credit to new consumers during that one-year period such that it lacks sufficient data with which to recalculate a cutoff score based on the credit scores of its own consumers, the person may continue to use a cutoff score derived from market research, third-party data, or information from a party which it acquired, with which it merged, or from which it acquired the portfolio as provided in paragraph (b)(1)(iii)(B) until it obtains sufficient data on which to base the recalculation. However, the person must recalculate its cutoff score(s) in the

manner described in paragraph (b)(1)(iii)(A) of this section within two years, if it has granted, extended, or provided credit to some new consumers during that two-year period.

(D) *Use of two or more credit scores.* A person that generally uses two or more credit scores in setting the material terms of credit granted, extended, or provided to a consumer must determine the cutoff score using the same method the person uses to evaluate multiple scores when making credit decisions. These evaluation methods may include, but are not limited to, selecting the low, median, high, most recent, or average credit score of each consumer to whom it grants, extends, or provides credit. If a person that uses two or more credit scores does not consistently use the same method for evaluating multiple credit scores (e.g., if the person sometimes chooses the median score and other times calculates the average score), the person must determine the cutoff score using a reasonable means. In such cases, use of any one of the methods that the person regularly uses or the average credit score of each consumer to whom it grants, extends, or provides credit is deemed to be a reasonable means of calculating the cutoff score.

(iv) *Credit score not available.* For purposes of this section, a person using the credit score proxy method who grants, extends, or provides credit to a consumer for whom a credit score is not available must assume that the consumer receives credit on material terms that are materially less favorable than the most favorable credit terms offered to a substantial proportion of consumers from or through that person and must provide a risk-based pricing notice to the consumer.

(v) *Examples.* (A) A credit card issuer engages in risk-based pricing and the annual percentage rates it offers to consumers are based in whole or in part on a credit score. The credit card issuer takes a representative sample of the credit scores of consumers to whom it issued credit cards within the preceding three months. The credit card issuer determines that approximately 40 percent of the sampled consumers have a credit score at or above 720 (on a scale of 350 to 850) and approximately

60 percent of the sampled consumers have a credit score below 720. Thus, the card issuer selects 720 as its cutoff score. A consumer applies to the credit card issuer for a credit card. The card issuer obtains a credit score for the consumer. The consumer's credit score is 700. Since the consumer's 700 credit score falls below the 720 cutoff score, the credit card issuer must provide a risk-based pricing notice to the consumer.

(B) A credit card issuer engages in risk-based pricing, and the annual percentage rates it offers to consumers are based in whole or in part on a credit score. The credit card issuer takes a representative sample of the consumers to whom it issued credit cards over the preceding six months. The credit card issuer determines that approximately 80 percent of the sampled consumers received credit at its lowest annual percentage rate, and 20 percent received credit at a higher annual percentage rate. Approximately 80 percent of the sampled consumers have a credit score at or above 750 (on a scale of 350 to 850), and 20 percent have a credit score below 750. Thus, the card issuer selects 750 as its cutoff score. A consumer applies to the credit card issuer for a credit card. The card issuer obtains a credit score for the consumer. The consumer's credit score is 740. Since the consumer's 740 credit score falls below the 750 cutoff score, the credit card issuer must provide a risk-based pricing notice to the consumer.

(C) An auto lender engages in risk-based pricing, obtains credit scores from one of the nationwide consumer reporting agencies, and uses the credit score proxy method to determine which consumers must receive a risk-based pricing notice. A consumer applies to the auto lender for credit to finance the purchase of an automobile. A credit score about that consumer is not available from the consumer reporting agency from which the lender obtains credit scores. The lender nevertheless grants, extends, or provides credit to the consumer. The lender must provide a risk-based pricing notice to the consumer.

(2) *Tiered pricing method—(i) In general.* A person that sets the material terms of credit granted, extended, or provided to a consumer by placing the

consumer within one of a discrete number of pricing tiers for a specific type of credit product, based in whole or in part on a consumer report, may comply with the requirements of paragraph (a) of this section by providing a risk-based pricing notice to each consumer who is not placed within the top pricing tier or tiers, as described below.

(ii) *Four or fewer pricing tiers.* If a person using the tiered pricing method has four or fewer pricing tiers, the person complies with the requirements of paragraph (a) of this section by providing a risk-based pricing notice to each consumer to whom it grants, extends, or provides credit who does not qualify for the top tier (that is, the lowest-priced tier). For example, a person that uses a tiered pricing structure with annual percentage rates of 8, 10, 12, and 14 percent would provide the risk-based pricing notice to each consumer to whom it grants, extends, or provides credit at annual percentage rates of 10, 12, and 14 percent.

(iii) *Five or more pricing tiers.* If a person using the tiered pricing method has five or more pricing tiers, the person complies with the requirements of paragraph (a) of this section by providing a risk-based pricing notice to each consumer to whom it grants, extends, or provides credit who does not qualify for the top two tiers (that is, the two lowest-priced tiers) and any other tier that, together with the top tiers, comprise no less than the top 30 percent but no more than the top 40 percent of the total number of tiers. Each consumer placed within the remaining tiers must receive a risk-based pricing notice. For example, if a person has nine pricing tiers, the top three tiers (that is, the three lowest-priced tiers) comprise no less than the top 30 percent but no more than the top 40 percent of the tiers. Therefore, a person using this method would provide a risk-based pricing notice to each consumer to whom it grants, extends, or provides credit who is placed within the bottom six tiers.

(c) *Application to credit card issuers—*  
(1) *In general.* A credit card issuer subject to the requirements of paragraph (a) of this section may use one of the methods set forth in paragraph (b) of this section to identify consumers to

whom it must provide a risk-based pricing notice. Alternatively, a credit card issuer may satisfy its obligations under paragraph (a) of this section by providing a risk-based pricing notice to a consumer when:

(i) A consumer applies for a credit card either in connection with an application program, such as a direct-mail offer or a take-one application, or in response to a solicitation under 12 CFR 1026.60, and more than a single possible purchase annual percentage rate may apply under the program or solicitation; and

(ii) Based in whole or in part on a consumer report, the credit card issuer provides a credit card to the consumer with an annual percentage rate referenced in §1022.71(n)(1)(ii) that is greater than the lowest annual percentage rate referenced in §1022.71(n)(1)(ii) available in connection with the application or solicitation.

(2) *No requirement to compare different offers.* A credit card issuer is not subject to the requirements of paragraph (a) of this section and is not required to provide a risk-based pricing notice to a consumer if:

(i) The consumer applies for a credit card for which the card issuer provides a single annual percentage rate referenced in §1022.71(n)(1)(ii), excluding a temporary initial rate that is lower than the rate that will apply after the temporary rate expires and a penalty rate that will apply upon the occurrence of one or more specific events, such as a late payment or an extension of credit that exceeds the credit limit; or

(ii) The credit card issuer offers the consumer the lowest annual percentage rate referenced in §1022.71(n)(1)(ii) available under the credit card offer for which the consumer applied, even if a lower annual percentage rate referenced in §1022.71(n)(1)(ii) is available under a different credit card offer issued by the card issuer.

(3) *Examples.* (i) A credit card issuer sends a solicitation to the consumer that discloses several possible purchase annual percentage rates that may apply, such as 10, 12, or 14 percent, or a range of purchase annual percentage

rates from 10 to 14 percent. The consumer applies for a credit card in response to the solicitation. The card issuer provides a credit card to the consumer with a purchase annual percentage rate of 12 percent based in whole or in part on a consumer report. Unless an exception applies under §1022.74, the card issuer may satisfy its obligations under paragraph (a) of this section by providing a risk-based pricing notice to the consumer because the consumer received credit at a purchase annual percentage rate greater than the lowest purchase annual percentage rate available under that solicitation.

(ii) The same facts as in the example in paragraph (c)(3)(i) of this section, except that the card issuer provides a credit card to the consumer at a purchase annual percentage rate of 10 percent. The card issuer is not required to provide a risk-based pricing notice to the consumer even if, under a different credit card solicitation, that consumer or other consumers might qualify for a purchase annual percentage rate of 8 percent.

(d) *Account review*—(1) *In general.* Except as otherwise provided in this subpart, a person is subject to the requirements of paragraph (a) of this section and must provide a risk-based pricing notice to a consumer in the form and manner required by this subpart if the person:

(i) Uses a consumer report in connection with a review of credit that has been extended to the consumer; and

(ii) Based in whole or in part on the consumer report, increases the annual percentage rate (the annual percentage rate referenced in §1022.71(n)(1)(ii) in the case of a credit card).

(2) *Example.* A credit card issuer periodically obtains consumer reports for the purpose of reviewing the terms of credit it has extended to consumers in connection with credit cards. As a result of this review, the credit card issuer increases the purchase annual percentage rate applicable to a consumer's credit card based in whole or in part on information in a consumer report. The credit card issuer is subject to the requirements of paragraph (a) of this section and must provide a risk-based pricing notice to the consumer.

**§ 1022.73 Content, form, and timing of risk-based pricing notices.**

(a) *Content of the notice*—(1) *In general.* The risk-based pricing notice required by §1022.72(a) or (c) must include:

(i) A statement that a consumer report (or credit report) includes information about the consumer's credit history and the type of information included in that history;

(ii) A statement that the terms offered, such as the annual percentage rate, have been set based on information from a consumer report;

(iii) A statement that the terms offered may be less favorable than the terms offered to consumers with better credit histories;

(iv) A statement that the consumer is encouraged to verify the accuracy of the information contained in the consumer report and has the right to dispute any inaccurate information in the report;

(v) The identity of each consumer reporting agency that furnished a consumer report used in the credit decision;

(vi) A statement that Federal law gives the consumer the right to obtain a copy of a consumer report from the consumer reporting agency or agencies identified in the notice without charge for 60 days after receipt of the notice;

(vii) A statement informing the consumer how to obtain a consumer report from the consumer reporting agency or agencies identified in the notice and providing contact information (including a toll-free telephone number, where applicable) specified by the consumer reporting agency or agencies;

(viii) A statement directing consumers to the Web site of the Bureau to obtain more information about consumer reports; and

(ix) If a credit score of the consumer to whom a person grants, extends, or otherwise provides credit is used in setting the material terms of credit:

(A) A statement that a credit score is a number that takes into account information in a consumer report, that the consumer's credit score was used to set the terms of credit offered, and that a credit score can change over time to reflect changes in the consumer's credit history;

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(B) The credit score used by the person in making the credit decision;

(C) The range of possible credit scores under the model used to generate the credit score;

(D) All of the key factors that adversely affected the credit score, which shall not exceed four key factors, except that if one of the key factors is the number of enquiries made with respect to the consumer report, the number of key factors shall not exceed five;

(E) The date on which the credit score was created; and

(F) The name of the consumer reporting agency or other person that provided the credit score.

(2) *Account review.* The risk-based pricing notice required by §1022.72(d) must include:

(i) A statement that a consumer report (or credit report) includes information about the consumer's credit history and the type of information included in that credit history;

(ii) A statement that the person has conducted a review of the account using information from a consumer report;

(iii) A statement that as a result of the review, the annual percentage rate on the account has been increased based on information from a consumer report;

(iv) A statement that the consumer is encouraged to verify the accuracy of the information contained in the consumer report and has the right to dispute any inaccurate information in the report;

(v) The identity of each consumer reporting agency that furnished a consumer report used in the account review;

(vi) A statement that Federal law gives the consumer the right to obtain a copy of a consumer report from the consumer reporting agency or agencies identified in the notice without charge for 60 days after receipt of the notice;

(vii) A statement informing the consumer how to obtain a consumer report from the consumer reporting agency or agencies identified in the notice and providing contact information (including a toll-free telephone number, where applicable) specified by the consumer reporting agency or agencies;

(viii) A statement directing consumers to the Web site of the Bureau to obtain more information about consumer reports; and

(ix) If a credit score of the consumer whose extension of credit is under review is used in increasing the annual percentage rate:

(A) A statement that a credit score is a number that takes into account information in a consumer report, that the consumer's credit score was used to set the terms of credit offered, and that a credit score can change over time to reflect changes in the consumer's credit history;

(B) The credit score used by the person in making the credit decision;

(C) The range of possible credit scores under the model used to generate the credit score;

(D) All of the key factors that adversely affected the credit score, which shall not exceed four key factors, except that if one of the key factors is the number of enquiries made with respect to the consumer report, the number of key factors shall not exceed five;

(E) The date on which the credit score was created; and

(F) The name of the consumer reporting agency or other person that provided the credit score.

(b) *Form of the notice*—(1) *In general.* The risk-based pricing notice required by §1022.72(a), (c), or (d) must be:

(i) Clear and conspicuous; and

(ii) Provided to the consumer in oral, written, or electronic form.

(2) *Model forms.* Model forms of the risk-based pricing notice required by §1022.72(a) and (c) are contained in appendices H-1 and H-6 of this part. Appropriate use of Model Form H-1 or H-6 is deemed to comply with the requirements of §1022.72(a) and (c). Model forms of the risk-based pricing notice required by §1022.72(d) are contained in appendices H-2 and H-7 of this part. Appropriate use of Model Form H-2 or H-7 is deemed to comply with the requirements of §1022.72(d). Use of the model forms is optional.

(c) *Timing*—(1) *General.* Except as provided in paragraph (c)(3) of this section, a risk-based pricing notice must be provided to the consumer:

(i) In the case of a grant, extension, or other provision of closed-end credit,

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before consummation of the transaction, but not earlier than the time the decision to approve an application for, or a grant, extension, or other provision of, credit, is communicated to the consumer by the person required to provide the notice;

(ii) In the case of credit granted, extended, or provided under an open-end credit plan, before the first transaction is made under the plan, but not earlier than the time the decision to approve an application for, or a grant, extension, or other provision of, credit is communicated to the consumer by the person required to provide the notice; or

(iii) In the case of a review of credit that has been extended to the consumer, at the time the decision to increase the annual percentage rate (annual percentage rate referenced in §1022.71(n)(1)(ii) in the case of a credit card) based on a consumer report is communicated to the consumer by the person required to provide the notice, or if no notice of the increase in the annual percentage rate is provided to the consumer prior to the effective date of the change in the annual percentage rate (to the extent permitted by law), no later than five days after the effective date of the change in the annual percentage rate.

(2) *Application to certain automobile lending transactions.* When a person to whom a credit obligation is initially payable grants, extends, or provides credit to a consumer for the purpose of financing the purchase of an automobile from an auto dealer or other party that is not affiliated with the person, any requirement to provide a risk-based pricing notice pursuant to this subpart is satisfied if the person:

(i) Provides a notice described in §1022.72(a), §1022.74(e), or §1022.74(f) to the consumer within the time periods set forth in paragraph (c)(1)(i) of this section, §1022.74(e)(3), or §1022.74(f)(4), as applicable; or

(ii) Arranges to have the auto dealer or other party provide a notice described in §1022.72(a), §1022.74(e), or §1022.74(f) to the consumer on its behalf within the time periods set forth in paragraph (c)(1)(i) of this section, §1022.74(e)(3), or §1022.74(f)(4), as applicable, and maintains reasonable poli-

cies and procedures to verify that the auto dealer or other party provides such notice to the consumer within the applicable time periods. If the person arranges to have the auto dealer or other party provide a notice described in §1022.74(e), the person's obligation is satisfied if the consumer receives a notice containing a credit score obtained by the dealer or other party, even if a different credit score is obtained and used by the person on whose behalf the notice is provided.

(3) *Timing requirements for contemporaneous purchase credit.* When credit under an open-end credit plan is granted, extended, or provided to a consumer in person or by telephone for the purpose of financing the contemporaneous purchase of goods or services, any risk-based pricing notice required to be provided pursuant to this subpart (or the disclosures permitted under §1022.74(e) or (f)) may be provided at the earlier of:

(i) The time of the first mailing by the person to the consumer after the decision is made to approve the grant, extension, or other provision of open-end credit, such as in a mailing containing the account agreement or a credit card; or

(ii) Within 30 days after the decision to approve the grant, extension, or other provision of credit.

(d) *Multiple credit scores*—(1) *In general.* When a person obtains or creates two or more credit scores and uses one of those credit scores in setting the material terms of credit, for example, by using the low, middle, high, or most recent score, the notices described in paragraphs (a)(1) and (2) of this section must include that credit score and information relating to that credit score required by paragraphs (a)(1)(ix) and (a)(2)(ix). When a person obtains or creates two or more credit scores and uses multiple credit scores in setting the material terms of credit by, for example, computing the average of all the credit scores obtained or created, the notices described in paragraphs (a)(1) and (2) of this section must include one of those credit scores and information relating to credit scores required by paragraphs (a)(1)(ix) and (a)(2)(ix). The notice may, at the person's option, include more than one credit score, along

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with the additional information specified in paragraphs (a)(1)(ix) and (a)(2)(ix) of this section for each credit score disclosed.

(2) *Examples.* (i) A person that uses consumer reports to set the material terms of credit cards granted, extended, or provided to consumers regularly requests credit scores from several consumer reporting agencies and uses the low score when determining the material terms it will offer to the consumer. That person must disclose the low score in the notices described in paragraphs (a)(1) and (2) of this section.

(ii) A person that uses consumer reports to set the material terms of automobile loans granted, extended, or provided to consumers regularly requests credit scores from several consumer reporting agencies, each of which it uses in an underwriting program in order to determine the material terms it will offer to the consumer. That person may choose one of these scores to include in the notices described in paragraph (a)(1) and (2) of this section.

### § 1022.74 Exceptions.

(a) *Application for specific terms—(1) In general.* A person is not required to provide a risk-based pricing notice to the consumer under § 1022.72(a) or (c) if the consumer applies for specific material terms and is granted those terms, unless those terms were specified by the person using a consumer report after the consumer applied for or requested credit and after the person obtained the consumer report. For purposes of this section, “specific material terms” means a single material term, or set of material terms, such as an annual percentage rate of 10 percent, and not a range of alternatives, such as an annual percentage rate that may be 8, 10, or 12 percent, or between 8 and 12 percent.

(2) *Example.* A consumer receives a firm offer of credit from a credit card issuer. The terms of the firm offer are based in whole or in part on information from a consumer report that the credit card issuer obtained under the FCRA’s firm offer of credit provisions. The solicitation offers the consumer a credit card with a single purchase annual percentage rate of 12 percent. The

consumer applies for and receives a credit card with an annual percentage rate of 12 percent. Other customers with the same credit card have a purchase annual percentage rate of 10 percent. The exception applies because the consumer applied for specific material terms and was granted those terms. Although the credit card issuer specified the annual percentage rate in the firm offer of credit based in whole or in part on a consumer report, the credit card issuer specified that material term *before*, not *after*, the consumer applied for or requested credit.

(b) *Adverse action notice.* A person is not required to provide a risk-based pricing notice to the consumer under § 1022.72(a), (c), or (d) if the person provides an adverse action notice to the consumer under section 615(a) of the FCRA.

(c) *Prescreened solicitations—(1) In general.* A person is not required to provide a risk-based pricing notice to the consumer under § 1022.72(a) or (c) if the person:

(i) Obtains a consumer report that is a prescreened list as described in section 604(c)(2) of the FCRA; and

(ii) Uses the consumer report for the purpose of making a firm offer of credit to the consumer.

(2) *More favorable material terms.* This exception applies to any firm offer of credit offered by a person to a consumer, even if the person makes other firm offers of credit to other consumers on more favorable material terms.

(3) *Example.* A credit card issuer obtains two prescreened lists from a consumer reporting agency. One list includes consumers with high credit scores. The other list includes consumers with low credit scores. The issuer mails a firm offer of credit to the high credit score consumers with a single purchase annual percentage rate of 10 percent. The issuer also mails a firm offer of credit to the low credit score consumers with a single purchase annual percentage rate of 14 percent. The credit card issuer is not required to provide a risk-based pricing notice to the low credit score consumers who receive the 14 percent offer because use of a consumer report to make a firm offer of credit does not trigger the risk-based pricing notice requirement.

(d) *Loans secured by residential real property—credit score disclosure—(1) In general.* A person is not required to provide a risk-based pricing notice to a consumer under §1022.72(a) or (c) if:

(i) The consumer requests from the person an extension of credit that is or will be secured by one to four units of residential real property; and

(ii) The person provides to each consumer described in paragraph (d)(1)(i) of this section a notice that contains the following:

(A) A statement that a consumer report (or credit report) is a record of the consumer's credit history and includes information about whether the consumer pays his or her obligations on time and how much the consumer owes to creditors;

(B) A statement that a credit score is a number that takes into account information in a consumer report and that a credit score can change over time to reflect changes in the consumer's credit history;

(C) A statement that the consumer's credit score can affect whether the consumer can obtain credit and what the cost of that credit will be;

(D) The information required to be disclosed to the consumer pursuant to section 609(g) of the FCRA;

(E) The distribution of credit scores among consumers who are scored under the same scoring model that is used to generate the consumer's credit score using the same scale as that of the credit score that is provided to the consumer, presented in the form of a bar graph containing a minimum of six bars that illustrates the percentage of consumers with credit scores within the range of scores reflected in each bar or by other clear and readily understandable graphical means, or a clear and readily understandable statement informing the consumer how his or her credit score compares to the scores of other consumers. Use of a graph or statement obtained from the person providing the credit score that meets the requirements of this paragraph (d)(1)(ii)(E) is deemed to comply with this requirement;

(F) A statement that the consumer is encouraged to verify the accuracy of the information contained in the consumer report and has the right to dis-

pute any inaccurate information in the report;

(G) A statement that Federal law gives the consumer the right to obtain copies of his or her consumer reports directly from the consumer reporting agencies, including a free report from each of the nationwide consumer reporting agencies once during any 12-month period;

(H) Contact information for the centralized source from which consumers may obtain their free annual consumer reports; and

(I) A statement directing consumers to the Web site of the Bureau to obtain more information about consumer reports.

(2) *Form of the notice.* The notice described in paragraph (d)(1)(ii) of this section must be:

(i) Clear and conspicuous;

(ii) Provided on or with the notice required by section 609(g) of the FCRA;

(iii) Segregated from other information provided to the consumer, except for the notice required by section 609(g) of the FCRA; and

(iv) Provided to the consumer in writing and in a form that the consumer may keep.

(3) *Timing.* The notice described in paragraph (d)(1)(ii) of this section must be provided to the consumer at the time the disclosure required by section 609(g) of the FCRA is provided to the consumer, but in any event at or before consummation in the case of closed-end credit or before the first transaction is made under an open-end credit plan.

(4) *Multiple credit scores—(i) In general.* When a person obtains two or more credit scores from consumer reporting agencies and uses one of those credit scores in setting the material terms of credit granted, extended, or otherwise provided to a consumer, for example, by using the low, middle, high, or most recent score, the notice described in paragraph (d)(1)(ii) of this section must include that credit score and the other information required by that paragraph. When a person obtains two or more credit scores from consumer reporting agencies and uses multiple credit scores in setting the material terms of credit granted, extended, or otherwise provided to a consumer,

for example, by computing the average of all the credit scores obtained, the notice described in paragraph (d)(1)(ii) of this section must include one of those credit scores and the other information required by that paragraph. The notice may, at the person's option, include more than one credit score, along with the additional information specified in paragraph (d)(1)(ii) of this section for each credit score disclosed.

(ii) *Examples.* (A) A person that uses consumer reports to set the material terms of mortgage credit granted, extended, or provided to consumers regularly requests credit scores from several consumer reporting agencies and uses the low score when determining the material terms it will offer to the consumer. That person must disclose the low score in the notice described in paragraph (d)(1)(ii) of this section.

(B) A person that uses consumer reports to set the material terms of mortgage credit granted, extended, or provided to consumers regularly requests credit scores from several consumer reporting agencies, each of which it uses in an underwriting program in order to determine the material terms it will offer to the consumer. That person may choose one of these scores to include in the notice described in paragraph (d)(1)(ii) of this section.

(5) *Model form.* A model form of the notice described in paragraph (d)(1)(ii) of this section consolidated with the notice required by section 609(g) of the FCRA is contained in appendix H-3 of this part. Appropriate use of Model Form H-3 is deemed to comply with the requirements of §1022.74(d). Use of the model form is optional.

(e) *Other extensions of credit—credit score disclosure—(1) In general.* A person is not required to provide a risk-based pricing notice to a consumer under §1022.72(a) or (c) if:

(i) The consumer requests from the person an extension of credit other than credit that is or will be secured by one to four units of residential real property; and

(ii) The person provides to each consumer described in paragraph (e)(1)(i) of this section a notice that contains the following:

(A) A statement that a consumer report (or credit report) is a record of the consumer's credit history and includes information about whether the consumer pays his or her obligations on time and how much the consumer owes to creditors;

(B) A statement that a credit score is a number that takes into account information in a consumer report and that a credit score can change over time to reflect changes in the consumer's credit history;

(C) A statement that the consumer's credit score can affect whether the consumer can obtain credit and what the cost of that credit will be;

(D) The current credit score of the consumer or the most recent credit score of the consumer that was previously calculated by the consumer reporting agency for a purpose related to the extension of credit;

(E) The range of possible credit scores under the model used to generate the credit score;

(F) The distribution of credit scores among consumers who are scored under the same scoring model that is used to generate the consumer's credit score using the same scale as that of the credit score that is provided to the consumer, presented in the form of a bar graph containing a minimum of six bars that illustrates the percentage of consumers with credit scores within the range of scores reflected in each bar, or by other clear and readily understandable graphical means, or a clear and readily understandable statement informing the consumer how his or her credit score compares to the scores of other consumers. Use of a graph or statement obtained from the person providing the credit score that meets the requirements of this paragraph (e)(1)(ii)(F) is deemed to comply with this requirement;

(G) The date on which the credit score was created;

(H) The name of the consumer reporting agency or other person that provided the credit score;

(I) A statement that the consumer is encouraged to verify the accuracy of the information contained in the consumer report and has the right to dispute any inaccurate information in the report;

(J) A statement that Federal law gives the consumer the right to obtain copies of his or her consumer reports directly from the consumer reporting agencies, including a free report from each of the nationwide consumer reporting agencies once during any 12-month period;

(K) Contact information for the centralized source from which consumers may obtain their free annual consumer reports; and

(L) A statement directing consumers to the Web site of the Bureau to obtain more information about consumer reports.

(2) *Form of the notice.* The notice described in paragraph (e)(1)(ii) of this section must be:

- (i) Clear and conspicuous;
- (ii) Segregated from other information provided to the consumer; and
- (iii) Provided to the consumer in writing and in a form that the consumer may keep.

(3) *Timing.* The notice described in paragraph (e)(1)(ii) of this section must be provided to the consumer as soon as reasonably practicable after the credit score has been obtained, but in any event at or before consummation in the case of closed-end credit or before the first transaction is made under an open-end credit plan.

(4) *Multiple credit scores—(i) In general.* When a person obtains two or more credit scores from consumer reporting agencies and uses one of those credit scores in setting the material terms of credit granted, extended, or otherwise provided to a consumer, for example, by using the low, middle, high, or most recent score, the notice described in paragraph (e)(1)(ii) of this section must include that credit score and the other information required by that paragraph. When a person obtains two or more credit scores from consumer reporting agencies and uses multiple credit scores in setting the material terms of credit granted, extended, or otherwise provided to a consumer, for example, by computing the average of all the credit scores obtained, the notice described in paragraph (e)(1)(ii) of this section must include one of those credit scores and the other information required by that paragraph. The notice may, at the person's option,

include more than one credit score, along with the additional information specified in paragraph (e)(1)(ii) of this section for each credit score disclosed.

(ii) *Examples.* The manner in which multiple credit scores are to be disclosed under this section are substantially identical to the manner set forth in the examples contained in paragraph (d)(4)(ii) of this section.

(5) *Model form.* A model form of the notice described in paragraph (e)(1)(ii) of this section is contained in appendix H-4 of this part. Appropriate use of Model Form H-4 is deemed to comply with the requirements of §1022.74(e). Use of the model form is optional.

(f) *Credit score not available—(1) In general.* A person is not required to provide a risk-based pricing notice to a consumer under §1022.72(a) or (c) if the person:

(i) Regularly obtains credit scores from a consumer reporting agency and provides credit score disclosures to consumers in accordance with paragraphs (d) or (e) of this section, but a credit score is not available from the consumer reporting agency from which the person regularly obtains credit scores for a consumer to whom the person grants, extends, or provides credit;

(ii) Does not obtain a credit score from another consumer reporting agency in connection with granting, extending, or providing credit to the consumer; and

(iii) Provides to the consumer a notice that contains the following:

(A) A statement that a consumer report (or credit report) includes information about the consumer's credit history and the type of information included in that history;

(B) A statement that a credit score is a number that takes into account information in a consumer report and that a credit score can change over time in response to changes in the consumer's credit history;

(C) A statement that credit scores are important because consumers with higher credit scores generally obtain more favorable credit terms;

(D) A statement that not having a credit score can affect whether the consumer can obtain credit and what the cost of that credit will be;

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(E) A statement that a credit score about the consumer was not available from a consumer reporting agency, which must be identified by name, generally due to insufficient information regarding the consumer's credit history;

(F) A statement that the consumer is encouraged to verify the accuracy of the information contained in the consumer report and has the right to dispute any inaccurate information in the consumer report;

(G) A statement that Federal law gives the consumer the right to obtain copies of his or her consumer reports directly from the consumer reporting agencies, including a free consumer report from each of the nationwide consumer reporting agencies once during any 12-month period;

(H) The contact information for the centralized source from which consumers may obtain their free annual consumer reports; and

(I) A statement directing consumers to the Web site of the Bureau to obtain more information about consumer reports.

(2) *Example.* A person that uses consumer reports to set the material terms of non-mortgage credit granted, extended, or provided to consumers regularly requests credit scores from a particular consumer reporting agency and provides those credit scores and additional information to consumers to satisfy the requirements of paragraph (e) of this section. That consumer reporting agency provides to the person a consumer report on a particular consumer that contains one trade line, but does not provide the person with a credit score on that consumer. If the person does not obtain a credit score from another consumer reporting agency and, based in whole or in part on information in a consumer report, grants, extends, or provides credit to the consumer, the person may provide the notice described in paragraph (f)(1)(iii) of this section. If, however, the person obtains a credit score from another consumer reporting agency, the person may not rely upon the exception in paragraph (f) of this section, but may satisfy the requirements of paragraph (e) of this section.

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(3) *Form of the notice.* The notice described in paragraph (f)(1)(iii) of this section must be:

- (i) Clear and conspicuous;
- (ii) Segregated from other information provided to the consumer; and
- (iii) Provided to the consumer in writing and in a form that the consumer may keep.

(4) *Timing.* The notice described in paragraph (f)(1)(iii) of this section must be provided to the consumer as soon as reasonably practicable after the person has requested the credit score, but in any event not later than consummation of a transaction in the case of closed-end credit or when the first transaction is made under an open-end credit plan.

(5) *Model form.* A model form of the notice described in paragraph (f)(1)(iii) of this section is contained in appendix H-5 of this part. Appropriate use of Model Form H-5 is deemed to comply with the requirements of §1022.74(f). Use of the model form is optional.

### § 1022.75 Rules of construction.

For purposes of this subpart, the following rules of construction apply:

(a) *One notice per credit extension.* A consumer is entitled to no more than one risk-based pricing notice under §1022.72(a) or (c), or one notice under §1022.74(d), (e), or (f), for each grant, extension, or other provision of credit. Notwithstanding the foregoing, even if a consumer has previously received a risk-based pricing notice in connection with a grant, extension, or other provision of credit, another risk-based pricing notice is required if the conditions set forth in §1022.72(d) have been met.

(b) *Multi-party transactions—(1) Initial creditor.* The person to whom a credit obligation is initially payable must provide the risk-based pricing notice described in §1022.72(a) or (c), or satisfy the requirements for and provide the notice required under one of the exceptions in §1022.74(d), (e), or (f), even if that person immediately assigns the credit agreement to a third party and is not the source of funding for the credit.

(2) *Purchasers or assignees.* A purchaser or assignee of a credit contract with a consumer is not subject to the requirements of this subpart and is not

required to provide the risk-based pricing notice described in §1022.72(a) or (c), or satisfy the requirements for and provide the notice required under one of the exceptions in §1022.74(d), (e), or (f).

(3) *Example.* A consumer obtains credit to finance the purchase of an automobile. If a bank or finance company is the person to whom the loan obligation is initially payable, the bank or finance company must provide the risk-based pricing notice to the consumer (or satisfy the requirements for and provide the notice required under one of the exceptions noted above) based on the terms offered by that bank or finance company only. The auto dealer has no duty to provide a risk-based pricing notice to the consumer. However, the bank or finance company may comply with this rule if the auto dealer has agreed to provide notices to consumers before consummation pursuant to an arrangement with the bank or finance company, as permitted under §1022.73(c).

(c) *Multiple consumers*—(1) *Risk-based pricing notices.* In a transaction involving two or more consumers who are granted, extended, or otherwise provided credit, a person must provide a notice to each consumer to satisfy the requirements of §1022.72(a) or (c). Whether the consumers have the same address or not, the person must provide a separate notice to each consumer if a notice includes a credit score(s). Each separate notice that includes a credit score(s) must contain only the credit score(s) of the consumer to whom the notice is provided, and not the credit score(s) of the other consumer. If the consumers have the same address, and the notice does not include a credit score(s), a person may satisfy the requirements by providing a single notice addressed to both consumers.

(2) *Credit score disclosure notices.* In a transaction involving two or more consumers who are granted, extended, or otherwise provided credit, a person must provide a separate notice to each consumer to satisfy the exceptions in §1022.74(d), (e), or (f). Whether the consumers have the same address or not, the person must provide a separate notice to each consumer. Each separate notice must contain only the credit

score(s) of the consumer to whom the notice is provided, and not the credit score(s) of the other consumer.

(3) *Examples.* (i) Two consumers jointly apply for credit with a creditor. The creditor obtains credit scores on both consumers. Based in part on the credit scores, the creditor grants credit to the consumers on material terms that are materially less favorable than the most favorable terms available to other consumers from the creditor. The creditor provides risk-based pricing notices to satisfy its obligations under this subpart. The creditor must provide a separate risk-based pricing notice to each consumer whether the consumers have the same address or not. Each risk-based pricing notice must contain only the credit score(s) of the consumer to whom the notice is provided.

(ii) Two consumers jointly apply for credit with a creditor. The two consumers reside at the same address. The creditor obtains credit scores on each of the two consumer applicants. The creditor grants credit to the consumers. The creditor provides credit score disclosure notices to satisfy its obligations under this subpart. Even though the two consumers reside at the same address, the creditor must provide a separate credit score disclosure notice to each of the consumers. Each notice must contain only the credit score of the consumer to whom the notice is provided.

### Subpart I—Duties of Users of Consumer Reports Regarding Identity Theft

#### §§ 1022.80–1022.81 [Reserved]

#### § 1022.82 Duties of users regarding address discrepancies.

(a) *Scope.* This section applies to a user of consumer reports (user) that receives a notice of address discrepancy from a consumer reporting agency described in 15 U.S.C. 1681a(p), except for a person excluded from coverage of this part by section 1029 of the Consumer Financial Protection Act of 2010, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 137.

(b) *Definition.* For purposes of this section, a *notice of address discrepancy*

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means a notice sent to a user by a consumer reporting agency described in 15 U.S.C. 1681a(p) pursuant to 15 U.S.C. 1681c(h)(1), that informs the user of a substantial difference between the address for the consumer that the user provided to request the consumer report and the address(es) in the agency's file for the consumer.

(c) *Reasonable belief*—(1) *Requirement to form a reasonable belief.* A user must develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about whom it has requested the report, when the user receives a notice of address discrepancy.

(2) *Examples of reasonable policies and procedures.* (i) Comparing the information in the consumer report provided by the consumer reporting agency with information the user:

(A) Obtains and uses to verify the consumer's identity in accordance with the requirements of the Customer Identification Program (CIP) rules implementing 31 U.S.C. 5318(1) (31 CFR 1020.220);

(B) Maintains in its own records, such as applications, change of address notifications, other customer account records, or retained CIP documentation; or

(C) Obtains from third-party sources; or

(ii) Verifying the information in the consumer report provided by the consumer reporting agency with the consumer.

(d) *Consumer's address*—(1) *Requirement to furnish consumer's address to a consumer reporting agency.* A user must develop and implement reasonable policies and procedures for furnishing an address for the consumer that the user has reasonably confirmed is accurate to the consumer reporting agency described in 15 U.S.C. 1681a(p) from whom it received the notice of address discrepancy when the user:

(i) Can form a reasonable belief that the consumer report relates to the consumer about whom the user requested the report;

(ii) Establishes a continuing relationship with the consumer; and

(iii) Regularly and in the ordinary course of business furnishes informa-

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tion to the consumer reporting agency from which the notice of address discrepancy relating to the consumer was obtained.

(2) *Examples of confirmation methods.* The user may reasonably confirm an address is accurate by:

(i) Verifying the address with the consumer about whom it has requested the report;

(ii) Reviewing its own records to verify the address of the consumer;

(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.

**Subparts J–L [Reserved]**

**Subpart M—Duties of Consumer Reporting Agencies Regarding Identity Theft**

**§ 1022.120 [Reserved]**

**§ 1022.121 Active duty alerts.**

(a) *Duration.* The duration of an active duty alert shall be twelve months.

(b) [Reserved]

**§ 1022.122 [Reserved]**

**§ 1022.123 Appropriate proof of identity.**

(a) Consumer reporting agencies shall develop and implement reasonable requirements for what information consumers shall provide to constitute proof of identity for purposes of sections 605A, 605B, and 609(a)(1) of the FCRA. In developing these requirements, the consumer reporting agencies must:

(1) Ensure that the information is sufficient to enable the consumer reporting agency to match consumers with their files; and

(2) Adjust the information to be commensurate with an identifiable risk of harm arising from misidentifying the consumer.

(b) Examples of information that might constitute reasonable information requirements for proof of identity are provided for illustrative purposes only, as follows:

(1) *Consumer file match.* The identification information of the consumer including his or her full name (first, middle initial, last, suffix), any other or previously used names, current and/or recent full address (street number and name, apt. no., city, state, and zip code), full nine digits of Social Security number, and/or date of birth.

(2) *Additional proof of identity.* Copies of government issued identification documents, utility bills, and/or other methods of authentication of a person's identity which may include, but would not be limited to, answering questions to which only the consumer might be expected to know the answer.

§§ 1022.124–1022.129 [Reserved]

**Subpart N—Duties of Consumer Reporting Agencies Regarding Disclosures to Consumers**

**§ 1022.130 Definitions.**

For purposes of this subpart, the following definitions apply:

(a) *Annual file disclosure* means a file disclosure that is provided to a consumer, upon consumer request and without charge, once in any twelve month period, in compliance with section 612(a) of the FCRA, 15 U.S.C. 1681j(a).

(b) *Associated consumer reporting agency* means a consumer reporting agency that owns or maintains consumer files housed within systems operated by one or more nationwide consumer reporting agencies.

(c) *Consumer report* has the meaning provided in section 603(d) of the FCRA, 15 U.S.C. 1681a(d).

(d) *Consumer reporting agency* has the meaning provided in section 603(f) of the FCRA, 15 U.S.C. 1681a(f).

(e) *Extraordinary request volume* occurs when the number of consumers requesting or attempting to request file disclosures during any twenty-four

hour period is more than 175 percent of the rolling ninety-day daily average of consumers requesting or attempting to request file disclosures. For example, if over the previous ninety days an average of one hundred consumers per day requested or attempted to request file disclosures, then extraordinary request volume would be any volume greater than 175 percent of one hundred, *i.e.*, 176 or more requests in a single twenty-four hour period.

(f) *File disclosure* means a disclosure by a consumer reporting agency pursuant to section 609 of the FCRA, 15 U.S.C. 1681g.

(g) *High request volume* occurs when the number of consumers requesting or attempting to request file disclosures during any twenty-four hour period is more than 125 percent of the rolling ninety-day daily average of consumers requesting or attempting to request file disclosures. For example, if over the previous ninety days an average of one hundred consumers per day requested or attempted to request file disclosures, then high request volume would be any volume greater than 125 percent of one hundred, *i.e.*, 126 or more requests in a single twenty-four hour period.

(h) *Nationwide consumer reporting agency* means a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as defined in section 603(p) of the FCRA, 15 U.S.C. 1681a(p).

(i) *Nationwide specialty consumer reporting agency* has the meaning provided in section 603(w) of the FCRA, 15 U.S.C. 1681a(w).

(j) *Request method* means the method by which a consumer chooses to communicate a request for an annual file disclosure.

§§ 1022.131–1022.135 [Reserved]

**§ 1022.136 Centralized source for requesting annual file disclosures from nationwide consumer reporting agencies.**

(a) *Purpose.* The purpose of the centralized source is to enable consumers to make a single request to obtain annual file disclosures from all nationwide consumer reporting agencies, as required under section 612(a) of the FCRA, 15 U.S.C. 1681j(a).

(b) *Establishment and operation.* All nationwide consumer reporting agencies shall jointly design, fund, implement, maintain, and operate a centralized source for the purpose described in Paragraph (a) of this section. The centralized source required by this part shall:

(1) Enable consumers to request annual file disclosures by any of the following request methods, at the consumers' option:

- (i) A single, dedicated Web site,
  - (ii) A single, dedicated toll-free telephone number; and
  - (iii) Mail directed to a single address;
- (2) Be designed, funded, implemented, maintained, and operated in a manner that:

- (i) Has adequate capacity to accept requests from the reasonably anticipated volume of consumers contacting the centralized source through each request method, as determined in accordance with paragraph (c) of this section;
- (ii) Collects only as much personally identifiable information as is reasonably necessary to properly identify the consumer as required under the FCRA, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations, and to process the transaction(s) requested by the consumer;
- (iii) Provides information through the centralized source Web site and telephone number regarding how to make a request by all request methods required under paragraph (b)(1) of this section; and
- (iv) Provides clear and easily understandable information and instructions to consumers, including, but not necessarily limited to:

(A) Providing information on the progress of the consumer's request while the consumer is engaged in the process of requesting a file disclosure;

(B) For a Web site request method, providing access to a "help" or "frequently asked questions" screen, which includes specific information that consumers might reasonably need to request file disclosures, the answers to questions that consumers might reasonably ask, and instructions whereby a consumer may file a complaint with the centralized source and with the Bureau;

(C) In the event that a consumer requesting a file disclosure through the centralized source cannot be properly identified in accordance with the FCRA, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations, providing a statement that the consumers' identity cannot be verified; and directions on how to complete the request, including what additional information or documentation will be required to complete the request, and how to submit such information; and

(D) A statement indicating that the consumer has reached the Web site or telephone number for ordering free annual credit reports as required by Federal law; and

(3) Make available to consumers a standardized form established jointly by the nationwide consumer reporting agencies, which consumers may use to make a request for an annual file disclosure, either by mail or on the Web site required under paragraph (b)(1) of this section, from the centralized source required by this part. The form provided at appendix L to part 1022, may be used to comply with this section.

(c) *Requirement to anticipate.* The nationwide consumer reporting agencies shall implement reasonable procedures to anticipate, and to respond to, the volume of consumers who will contact the centralized source through each request method, to request, or attempt to request, a file disclosure, including developing and implementing contingency plans to address circumstances that are reasonably likely to occur and that may materially and adversely impact the operation of the nationwide consumer reporting agency, a centralized source request method, or the centralized source.

(1) The contingency plans required by this section shall include reasonable measures to minimize the impact of such circumstances on the operation of the centralized source and on consumers contacting, or attempting to contact, the centralized source.

(i) Such reasonable measures to minimize impact shall include, but are not necessarily limited to:

(A) The extent reasonably practicable under the circumstances, providing information to consumers on how to use another available request method;

(B) The extent reasonably practicable under the circumstances, communicating, to a consumer who attempts but is unable to make a request, the fact that a condition exists that has precluded the centralized source from accepting all requests, and the period of time after which the centralized source is reasonably anticipated to be able to accept the consumers' request for an annual file disclosure; and

(C) Taking all reasonable steps to restore the centralized source to normal operating status as quickly as reasonably practicable under the circumstances.

(ii) Reasonable measures to minimize impact may also include, as appropriate, collecting request information but declining to accept the request for processing until a reasonable later time, provided that the consumer is clearly and prominently informed, to the extent reasonably practicable under the circumstances, of when the request will be accepted for processing.

(2) A nationwide consumer reporting agency shall not be deemed in violation of paragraph (b)(2)(i) of this section if a centralized source request method is unavailable to accept requests for a reasonable period of time for purposes of conducting maintenance on the request method, provided that the other required request methods remain available during such time.

(d) *Disclosures required.* If a nationwide consumer reporting agency has the ability to provide a consumer report to a third party relating to a consumer, regardless of whether the consumer report is owned by that nationwide consumer reporting agency or by an associated consumer reporting agency, that nationwide consumer reporting agency shall, upon proper identification in compliance with section 610(a)(1) of the FCRA, 15 U.S.C. 1681h(a)(1), provide an annual file disclosure to such consumer if the consumer makes a request through the centralized source.

(e) *High request volume and extraordinary request volume*—(1) *High request volume.* Provided that a nationwide consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (c) of this section, entitled “requirement to anticipate,” the nationwide consumer reporting agency shall not be deemed in violation of paragraph (b)(2)(i) of this section for any period of time in which a centralized source request method, the centralized source, or the nationwide consumer reporting agency experiences high request volume, if the nationwide consumer reporting agency:

(i) Collects all consumer request information and delays accepting the request for processing until a reasonable later time; and

(ii) Clearly and prominently informs the consumer of when the request will be accepted for processing.

(2) *Extraordinary request volume.* Provided that the nationwide consumer reporting agency has implemented reasonable procedures developed in compliance with paragraph (c) of this section, entitled “requirement to anticipate,” the nationwide consumer reporting agency shall not be deemed in violation of paragraph (b)(2)(i) of this section for any period of time during which a particular centralized source request method, the centralized source, or the nationwide consumer reporting agency experiences extraordinary request volume.

(f) *Information use and disclosure.* Any personally identifiable information collected from consumers as a result of a request for annual file disclosure, or other disclosure required by the FCRA, made through the centralized source, may be used or disclosed by the centralized source or a nationwide consumer reporting agency only:

(1) To provide the annual file disclosure or other disclosure required under the FCRA requested by the consumer;

(2) To process a transaction requested by the consumer at the same time as a request for annual file disclosure or other disclosure;

(3) To comply with applicable legal requirements, including those imposed by the FCRA and this part; and

(4) To update personally identifiable information already maintained by the nationwide consumer reporting agency for the purpose of providing consumer reports, provided that the nationwide consumer reporting agency uses and discloses the updated personally identifiable information subject to the same restrictions that would apply, under any applicable provision of law or regulation, to the information updated or replaced.

(g) *Communications provided through centralized source.* (1) Any advertising or marketing for products or services, any communications or instructions that advertise or market any products or services, or any request to establish an account through the centralized source must be delayed until after the consumer has obtained his or her annual file disclosure.

(i) In the case of requests made by mail or telephone, the consumer “has obtained his or her annual file disclosure” when the file disclosure is mailed, and the nationwide consumer reporting agency may include advertising for other products or services with the file disclosure.

(ii) In the case of requests made through the centralized source Web site, the consumer “has obtained his or her annual file disclosure” when the file disclosure is delivered to the consumer through the Internet, and the nationwide consumer reporting agency may include advertising for other products or services with the file disclosure.

(2) Any communications, instructions, or permitted advertising or marketing shall not interfere with, detract from, contradict, or otherwise undermine the purpose of the centralized source stated in Paragraph (a) of this section.

(3) Examples of interfering, detracting, inconsistent, and/or undermining communications include:

(i) Centralized source materials that represent, expressly or by implication, that a consumer must purchase a paid product or service in order to receive or to understand the annual file disclosure;

(ii) Centralized source materials that represent, expressly or by implication, that annual file disclosures are not

free, or that obtaining an annual file disclosure will have a negative impact on the consumers’ credit standing; and

(iii) Centralized source materials that falsely represent, expressly or by implication, that a product or service offered ancillary to receipt of a file disclosure, such as a credit score or credit monitoring service, is free, or fail to clearly and prominently disclose that consumers must cancel a service, advertised as free for an initial period of time, to avoid being charged, if such is the case.

(h) *Other practices prohibited through the centralized source.* The centralized source shall not:

(1) Contain hyperlinks to commercial or proprietary Web sites until after the consumer has obtained his or her annual file disclosure, except for technical transfers to a Web page on which consumers can request their free annual file disclosure; provided, however, that no hyperlinks to commercial Web sites shall appear on the initial page of the centralized source.

(2) Require consumers to set up an account in connection with obtaining an annual file disclosure; or

(3) Ask or require consumers to agree to terms or conditions in connection with obtaining an annual file disclosure.

**§ 1022.137 Streamlined process for requesting annual file disclosures from nationwide specialty consumer reporting agencies.**

(a) *Streamlined process requirements.* Any nationwide specialty consumer reporting agency shall have a streamlined process for accepting and processing consumer requests for annual file disclosures. The streamlined process required by this part shall:

(1) Enable consumers to request annual file disclosures by a toll-free telephone number that:

(i) Provides clear and prominent instructions for requesting disclosures by any additional available request methods, that do not interfere with, detract from, contradict, or otherwise undermine the ability of consumers to obtain annual file disclosures through the streamlined process required by this part;

(ii) Is published, in conjunction with all other published numbers for the nationwide specialty consumer reporting agency, in any telephone directory in which any telephone number for the nationwide specialty consumer reporting agency is published; and

(iii) Is clearly and prominently posted on any Web site owned or maintained by the nationwide specialty consumer reporting agency that is related to consumer reporting, along with instructions for requesting disclosures by any additional available request methods; and

(2) Be designed, funded, implemented, maintained, and operated in a manner that:

(i) Has adequate capacity to accept requests from the reasonably anticipated volume of consumers contacting the nationwide specialty consumer reporting agency through the streamlined process, as determined in compliance with paragraph (b) of this section;

(ii) Collects only as much personal information as is reasonably necessary to properly identify the consumer as required under the FCRA, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations; and

(iii) Provides clear and easily understandable information and instructions to consumers, including but not necessarily limited to:

(A) Providing information on the status of the consumers request while the consumer is in the process of making a request;

(B) For a Web site request method, providing access to a “help” or “frequently asked questions” screen, which includes more specific information that consumers might reasonably need to order their file disclosure, the answers to questions that consumers might reasonably ask, and instructions whereby a consumer may file a complaint with the nationwide specialty consumer reporting agency and with the Bureau; and

(C) In the event that a consumer requesting a file disclosure cannot be properly identified in accordance with the FCRA, section 610(a)(1), 15 U.S.C. 1681h(a)(1), and other applicable laws and regulations, providing a statement that the consumers identity cannot be verified; and directions on how to com-

plete the request, including what additional information or documentation will be required to complete the request, and how to submit such information.

(b) *Requirement to anticipate.* A nationwide specialty consumer reporting agency shall implement reasonable procedures to anticipate, and respond to, the volume of consumers who will contact the nationwide specialty consumer reporting agency through the streamlined process to request, or attempt to request, file disclosures, including developing and implementing contingency plans to address circumstances that are reasonably likely to occur and that may materially and adversely impact the operation of the nationwide specialty consumer reporting agency, a request method, or the streamlined process.

(1) The contingency plans required by this section shall include reasonable measures to minimize the impact of such circumstances on the operation of the streamlined process and on consumers contacting, or attempting to contact, the nationwide specialty consumer reporting agency through the streamlined process.

(i) Such reasonable measures to minimize impact shall include, but are not necessarily limited to:

(A) To the extent reasonably practicable under the circumstances, providing information to consumers on how to use another available request method;

(B) To the extent reasonably practicable under the circumstances, communicating, to a consumer who attempts but is unable to make a request, the fact that a condition exists that has precluded the nationwide specialty consumer reporting agency from accepting all requests, and the period of time after which the agency is reasonably anticipated to be able to accept the consumers request for an annual file disclosure; and

(C) Taking all reasonable steps to restore the streamlined process to normal operating status as quickly as reasonably practicable under the circumstances.

(ii) Measures to minimize impact may also include, as appropriate, collecting request information but declining to accept the request for processing until a reasonable later time, provided that the consumer is clearly and prominently informed, to the extent reasonably practicable under the circumstances, of when the request will be accepted for processing.

(2) A nationwide specialty consumer reporting agency shall not be deemed in violation of paragraph (a)(2)(i) of this section if the toll-free telephone number required by this part is unavailable to accept requests for a reasonable period of time for purposes of conducting maintenance on the request method, provided that the nationwide specialty consumer reporting agency makes other request methods available to consumers during such time.

(c) *High request volume and extraordinary request volume*—(1) *High request volume*. Provided that the nationwide specialty consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (b) of this section, entitled “requirement to anticipate,” a nationwide specialty consumer reporting agency shall not be deemed in violation of paragraph (a)(2)(i) of this section for any period of time during which a streamlined process request method or the nationwide specialty consumer reporting agency experiences high request volume, if the nationwide specialty consumer reporting agency:

(i) Collects all consumer request information and delays accepting the request for processing until a reasonable later time; and

(ii) Clearly and prominently informs the consumer of when the request will be accepted for processing.

(2) *Extraordinary request volume*. Provided that the nationwide specialty consumer reporting agency has implemented reasonable procedures developed in accordance with paragraph (b) of this section, entitled “requirement to anticipate,” a nationwide specialty consumer reporting agency shall not be deemed in violation of Paragraph (a)(2)(i) of this section for any period of time during which a streamlined process request method or the nationwide specialty consumer reporting agency

experiences extraordinary request volume.

(d) *Information use and disclosure*. Any personally identifiable information collected from consumers as a result of a request for annual file disclosure, or other disclosure required by the FCRA, made through the streamlined process, may be used or disclosed by the nationwide specialty consumer reporting agency only:

(1) To provide the annual file disclosure or other disclosure required under the FCRA requested by the consumer;

(2) To process a transaction requested by the consumer at the same time as a request for annual file disclosure or other disclosure;

(3) To comply with applicable legal requirements, including those imposed by the FCRA and this part; and

(4) To update personally identifiable information already maintained by the nationwide specialty consumer reporting agency for the purpose of providing consumer reports, provided that the nationwide specialty consumer reporting agency uses and discloses the updated personally identifiable information subject to the same restrictions that would apply, under any applicable provision of law or regulation, to the information updated or replaced.

(e) *Requirement to accept or redirect requests*. If a consumer requests an annual file disclosure through a method other than the streamlined process established by the nationwide specialty consumer reporting agency in compliance with this part, a nationwide specialty consumer reporting agency shall:

(1) Accept the consumers request; or

(2) Instruct the consumer how to make the request using the streamlined process required by this part.

**§ 1022.138 Prevention of deceptive marketing of free credit reports.**

(a) For purposes of this section:

(1) *AnnualCreditReport.com and (877) 322-8228* means the Uniform Resource Locator address “AnnualCreditReport.com” and toll-free telephone number, (877) 322-8228. These are the locator address and toll-free telephone number currently used by the centralized source. If the locator address or toll-free telephone number

changes in the future, the new address or telephone number shall be substituted within a reasonable time.

(2) *Free credit report* means a file disclosure prepared by or obtained from, directly or indirectly, a nationwide consumer reporting agency (as defined in section 603(p) of the FCRA), that is represented, either expressly or impliedly, to be available to the consumer at no cost if the consumer purchases a product or service, or agrees to purchase a product or service subject to cancellation.

(3) *General requirements for disclosures.* The disclosures covered by paragraph (b) of this section shall contain only the prescribed content and comply with the following requirements:

(i) All disclosures shall be prominent;

(ii) All disclosures shall be made in the same language as that principally used in the advertisement;

(iii) Visual disclosures shall be easily readable; in a high degree of contrast from the immediate background on which it appears; in a format so that the disclosure is distinct from other text, such as inside a border; in a distinct type style, such as bold; and parallel to the base of the advertisement or screen;

(iv) Audio disclosures shall be delivered in a slow and deliberate manner and in a reasonably understandable volume and pitch;

(v) Program-length television, radio, or Internet-hosted multimedia advertisement disclosures shall be made at the beginning, near the middle, and at the end of the advertisement; and

(vi) Nothing contrary to, inconsistent with, or that undermines the required disclosures shall be used in any advertisement in any medium, nor shall any audio, visual, or print technique be used that is likely to detract significantly from the communication of any disclosure.

(b) *Medium-specific disclosures.* All offers of free credit reports shall prominently include the disclosures required by this section.

(1) *Television advertisements.* (i) All advertisements for free credit reports broadcast on television shall include the following disclosure in close proximity to the first mention of a free credit report: "This is not the free

credit report provided for by Federal law."

(ii) The disclosure shall appear at the same time in the audio and visual part of the advertisement. The visual disclosure shall be at least four percent of the vertical picture height and appear for a minimum of four seconds.

(2) *Radio advertisements.* All advertisements for free credit reports broadcast on radio shall include the following disclosure in close proximity to the first mention of a free credit report: "This is not the free credit report provided for by Federal law."

(3) *Print advertisements.* All advertisements for free credit reports in print shall include the following disclosure in the form specified below and in close proximity to the first mention of a free credit report. The first line of the disclosure shall be centered and contain only the following language: "THIS NOTICE IS REQUIRED BY LAW." Immediately below the first line of the disclosure the following language shall appear: "You have the right to a free credit report from *AnnualCreditReport.com* or (877) 322-8228, the ONLY authorized source under Federal law." Each letter of the disclosure text shall be, at minimum, one-half the size of the largest character used in the advertisement.

(4) *Web sites.* Any Web site offering free credit reports must display the disclosure set forth in paragraphs (b)(4)(i), (ii), and (v) of this section on each page that mentions a free credit report and on each page of the ordering process. This disclosure shall be visible across the top of each page where the disclosure is required to appear; shall appear inside a box; and shall appear in the form specified below:

(i) The first element of the disclosure shall be a header that is centered and shall consist of the following text: "THIS NOTICE IS REQUIRED BY LAW. Read more at *consumerfinance.gov/learnmore*." Each letter of the header shall be one-half the size of the largest character of the disclosure text required by paragraph (b)(4)(ii) of this section. The reference to *consumerfinance.gov/learnmore* shall be an operational hyperlink, underlined, and in a color that is a high degree of contrast from the color of the

other disclosure text and background color of the box. Until January 1, 2013, “www.ftc.gov” and the corresponding hyperlink may be substituted for “consumerfinance.gov/learnmore” and the corresponding hyperlink;

(ii) The second element of the disclosure shall appear below the header required by paragraph (b)(4)(i) and shall consist of the following text: “You have the right to a free credit report from *AnnualCreditReport.com* or (877) 322-8228, the ONLY authorized source under Federal law.” The reference to *AnnualCreditReport.com* shall be an operational hyperlink to the centralized source, underlined, and in the same color as the hyperlink to *consumerfinance.gov/learnmore* required in § 1022.138(b)(4)(i);

(iii) The color of the text required by § 1022.138(b)(4)(i) and (ii) shall be in a high degree of contrast with the background color of the box;

(iv) The background of the box shall be a solid color in a high degree of contrast from the background of the page and the color shall not appear elsewhere on the page;

(v) The third element of the disclosure shall appear below the text required by paragraph (b)(4)(ii) and shall be an operational hyperlink to *AnnualCreditReport.com* that appears as a centered button containing the following language: “Take me to the authorized source.” The background of this button shall be the same color as the hyperlinks required by § 1022.138(b)(4)(i) and (ii) and the text shall be in a high degree of contrast to the background of the button;

(vi) Each character of the text required in paragraph (b)(4)(ii) and (v) of this section shall be, at minimum, the same size as the largest character on the page, including characters in an image or graphic banner;

(vii) Each character of the disclosure shall be displayed as plain text and in a sans serif font, such as Arial; and

(viii) The space between each element of the disclosure required in paragraph (b)(i), (ii), and (v) of this section shall be, at minimum, the same size as the largest character on the page, including characters in an image or graphic banner. The space between the boundaries of the box and the text or

button required in § 1022.138(b)(i), (ii), and (v) shall be, at minimum, twice the size of the vertical height of the largest character on the page, including characters in an image or graphic banner.

(5) *Internet-hosted multimedia advertising.* All advertisements for free credit reports disseminated through Internet-hosted multimedia in both audio and visual formats shall include the following disclosure in the form specified below and in close proximity to the first mention of a free credit report. The first line of the disclosure shall be centered and contain only the following language: “THIS NOTICE IS REQUIRED BY LAW.” Immediately below the first line of the disclosure the following language shall appear: “You have the right to a free credit report from *AnnualCreditReport.com* or (877) 322-8228, the ONLY authorized source under Federal law.” The disclosure shall appear at the same time in the audio and visual part of the advertisement. If the advertisement contains characters, the visual disclosure shall be, at minimum, the same size as the largest character on the advertisement.

(6) *Telephone requests.* When consumers call any telephone number, other than the number of the centralized source, appearing in an advertisement that represents free credit reports are available at the number, consumers must receive the following audio disclosure at the first mention of a free credit report: “The following notice is required by law. You have the right to a free credit report from *AnnualCreditReport.com* or (877) 322-8228, the only authorized source under Federal law.”

(7) *Telemarketing solicitations.* When telemarketing sales calls are made that include offers of free credit reports, the call must include at the first mention of a free credit report the following disclosure: “The following notice is required by law. You have the right to a free credit report from *AnnualCreditReport.com* or (877) 322-8228, the only authorized source under Federal law.”

## § 1022.139 [Reserved]

**Subpart O—Miscellaneous Duties of Consumer Reporting Agencies****§ 1022.140 Prohibition against circumventing or evading treatment as a consumer reporting agency.**

(a) A consumer reporting agency shall not circumvent or evade treatment as a “consumer reporting agency that compiles and maintains files on consumers on a nationwide basis,” as defined under section 603(p) of the FCRA, 15 U.S.C. 1681a(p), by any means, including, but not limited to:

(1) Corporate organization, reorganization, structure, or restructuring, including merger, acquisition, dissolution, divestiture, or asset sale of a consumer reporting agency; or

(2) Maintaining or merging public record and credit account information in a manner that is substantially equivalent to that described in Paragraphs (1) and (2) of section 603(p) of the FCRA, 15 U.S.C. 1681a(p).

(b) *Examples:*

(1) *Circumvention through reorganization by data type.* XYZ Inc. is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. It restructures its operations so that public record information is assembled and maintained only by its corporate affiliate, ABC Inc. XYZ continues operating as a consumer reporting agency but ceases to comply with the FCRA obligations of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, asserting that it no longer meets the definition found in FCRA section 603(p), because it no longer maintains public record information. XYZ’s conduct is a circumvention or evasion of treatment as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, and thus violates this section.

(2) *Circumvention through reorganization by regional operations.* PDQ Inc. is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. It restructures its operations so that corporate affiliates separately assemble and maintain all information on consumers residing

in each state. PDQ continues to operate as a consumer reporting agency but ceases to comply with the FCRA obligations of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, asserting that it no longer meets the definition found in FCRA section 603(p), because it no longer operates on a nationwide basis. PDQ’s conduct is a circumvention or evasion of treatment as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, and thus violates this section.

(3) *Circumvention by a newly formed entity.* Smith Co. is a new entrant in the marketplace for consumer reports that bear on a consumer’s credit worthiness, standing and capacity. Smith Co. organizes itself into two affiliated companies: Smith Credit Co. and Smith Public Records Co. Smith Credit Co. assembles and maintains credit account information from persons who furnish that information regularly and in the ordinary course of business on consumers residing nationwide. Smith Public Records Co. assembles and maintains public record information on consumers nationwide. Neither Smith Co. nor its affiliated organizations comply with FCRA obligations of consumer reporting agencies that compile and maintain files on consumers on a nationwide basis. Smith Co.’s conduct is a circumvention or evasion of treatment as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, and thus violates this section.

(4) *Bona fide, arm’s length transaction with unaffiliated party.* Foster Ltd. is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis. Foster Ltd. sells its public record information business to an unaffiliated company in a bona fide, arm’s length transaction. Foster Ltd. ceases to assemble, evaluate and maintain public record information on consumers residing nationwide, and ceases to offer reports containing public record information. Foster Ltd.’s conduct is not a circumvention or evasion of treatment as a consumer reporting agency that compiles and

maintains files on consumers on a nationwide basis. Foster Ltd.'s conduct does not violate this part.

(c) *Limitation on applicability.* Any person who is otherwise in violation of paragraph (a) of this section shall be deemed to be in compliance with this part if such person is in compliance with all obligations imposed upon consumer reporting agencies that compile and maintain files on consumers on a nationwide basis under the FCRA, 15 U.S.C. 1681 *et seq.*

#### APPENDIX A TO PART 1022 [RESERVED]

#### APPENDIX B TO PART 1022—MODEL NOTICES OF FURNISHING NEGATIVE INFORMATION

a. Although use of the model notices is not required, a financial institution that is subject to section 623(a)(7) of the FCRA shall be deemed to be in compliance with the notice requirement in section 623(a)(7) of the FCRA if the institution properly uses the model notices in this appendix (as applicable).

b. A financial institution may use Model Notice B-1 if the institution provides the notice prior to furnishing negative information to a nationwide consumer reporting agency.

c. A financial institution may use Model Notice B-2 if the institution provides the notice after furnishing negative information to a nationwide consumer reporting agency.

d. Financial institutions may make certain changes to the language or format of the model notices without losing the safe harbor from liability provided by the model notices. The changes to the model notices may not be so extensive as to affect the substance, clarity, or meaningful sequence of the language in the model notices. Financial institutions making such extensive revisions will lose the safe harbor from liability that this appendix provides. Acceptable changes include, for example,

1. Rearranging the order of the references to "late payment(s)," or "missed payment(s)."

2. Pluralizing the terms "credit bureau," "credit report," and "account."

3. Specifying the particular type of account on which information may be furnished, such as "credit card account."

4. Rearranging in Model Notice B-1 the phrases "information about your account" and "to credit bureaus" such that it would read "We may report to credit bureaus information about your account."

#### MODEL NOTICE B-1

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your

account may be reflected in your credit report.

#### MODEL NOTICE B-2

We have told a credit bureau about a late payment, missed payment or other default on your account. This information may be reflected in your credit report.

#### APPENDIX C TO PART 1022—MODEL FORMS FOR OPT-OUT NOTICES

a. Although use of the model forms is not required, use of the model forms in this appendix (as applicable) complies with the requirement in section 624 of the Act for clear, conspicuous, and concise notices.

b. Certain changes may be made to the language or format of the model forms without losing the protection from liability afforded by use of the model forms. These changes may not be so extensive as to affect the substance, clarity, or meaningful sequence of the language in the model forms. Persons making such extensive revisions will lose the safe harbor that this appendix provides. Acceptable changes include, for example:

1. Rearranging the order of the references to "your income," "your account history," and "your credit score."

2. Substituting other types of information for "income," "account history," or "credit score" for accuracy, such as "payment history," "credit history," "payoff status," or "claims history."

3. Substituting a clearer and more accurate description of the affiliates providing or covered by the notice for phrases such as "the [ABC] group of companies," including without limitation a statement that the entity providing the notice recently purchased the consumer's account.

4. Substituting other types of affiliates covered by the notice for "credit card," "insurance," or "securities" affiliates.

5. Omitting items that are not accurate or applicable. For example, if a person does not limit the duration of the opt-out period, the notice may omit information about the renewal notice.

6. Adding a statement informing consumers how much time they have to opt out before shared eligibility information may be used to make solicitations to them.

7. Adding a statement that the consumer may exercise the right to opt out at any time.

8. Adding the following statement, if accurate: "If you previously opted out, you do not need to do so again."

9. Providing a place on the form for the consumer to fill in identifying information, such as his or her name and address.

10. Adding disclosures regarding the treatment of opt-outs by joint consumers to comply with §1022.23(a)(2) of this part.

**Bur. of Consumer Financial Protection**

**Pt. 1022, App. C**

C-1 Model Form for Initial Opt-out Notice (Single-Affiliate Notice)

C-2 Model Form for Initial Opt-out Notice (Joint Notice)

C-3 Model Form for Renewal Notice (Single-Affiliate Notice)

C-4 Model Form for Renewal Notice (Joint Notice)

C-5 Model Form for Voluntary “No Marketing” Notice

C-1—MODEL FORM FOR INITIAL OPT-OUT NOTICE (SINGLE-AFFILIATE NOTICE)—[YOUR CHOICE TO LIMIT MARKETING]/[MARKETING OPT-OUT]

• [Name of Affiliate] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from our affiliates. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from our affiliates.]

• You may limit our affiliates in the [ABC] group of companies, such as our [credit card, insurance, and securities] affiliates, from marketing their products or services to you based on your personal information that we collect and share with them. This information includes your [income], your [account history with us], and your [credit score].

• Your choice to limit marketing offers from our affiliates will apply [until you tell us to change your choice]/[for x years from when you tell us your choice]/[for at least 5 years from when you tell us your choice]. [Include if the opt-out period expires.] Once that period expires, you will receive a renewal notice that will allow you to continue to limit marketing offers from our affiliates for [another x years]/[at least another 5 years].

• [Include, if applicable, in a subsequent notice, including an annual notice, for consumers who may have previously opted out.] If you have already made a choice to limit marketing offers from our affiliates, you do not need to act again until you receive the renewal notice.

To limit marketing offers, contact us [include all that apply]:

- By telephone: 1-(877) ###-####
- On the Web: *www.—.com*
- By mail: Check the box and complete the form below, and send the form to:

[Company name]  
[Company address]

—Do not allow your affiliates to use my personal information to market to me.

C-2—MODEL FORM FOR INITIAL OPT-OUT NOTICE (JOINT NOTICE)—[YOUR CHOICE TO LIMIT MARKETING]/[MARKETING OPT-OUT]

• The [ABC group of companies] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from the [ABC] companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from the [ABC] companies.]

• You may limit the [ABC] companies, such as the [ABC credit card, insurance, and securities] affiliates, from marketing their products or services to you based on your personal information that they receive from other [ABC] companies. This information includes your [income], your [account history], and your [credit score].

• Your choice to limit marketing offers from the [ABC] companies will apply [until you tell us to change your choice]/[for x years from when you tell us your choice]/[for at least 5 years from when you tell us your choice]. [Include if the opt-out period expires.] Once that period expires, you will receive a renewal notice that will allow you to continue to limit marketing offers from the [ABC] companies for [another x years]/[at least another 5 years].

• [Include, if applicable, in a subsequent notice, including an annual notice, for consumers who may have previously opted out.] If you have already made a choice to limit marketing offers from the [ABC] companies, you do not need to act again until you receive the renewal notice.

To limit marketing offers, contact us [include all that apply]:

- By telephone: 1-(877) ###-####
- On the Web: *www.—.com*
- By mail: Check the box and complete the form below, and send the form to:

[Company name]  
[Company address]

—Do not allow any company [in the ABC group of companies] to use my personal information to market to me.

**C-3—MODEL FORM FOR RENEWAL NOTICE (SINGLE-AFFILIATE NOTICE)—[RENEWING YOUR CHOICE TO LIMIT MARKETING]/[RENEWING YOUR MARKETING OPT-OUT]**

• [Name of Affiliate] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from our affiliates. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from our affiliates.]

• You previously chose to limit our affiliates in the [ABC] group of companies, such as our [credit card, insurance, and securities] affiliates, from marketing their products or services to you based on your personal information that we share with them. This information includes your [income], your [account history with us], and your [credit score].

• Your choice has expired or is about to expire.

To renew your choice to limit marketing for [x] more years, contact us [include all that apply]:

- By telephone: 1-(877) ###-####
- On the Web: *www.—.com*
- By mail: Check the box and complete the form below, and send the form to:

[Company name]  
[Company address]

—Renew my choice to limit marketing for [x] more years.

**C-4—MODEL FORM FOR RENEWAL NOTICE (JOINT NOTICE)—[RENEWING YOUR CHOICE TO LIMIT MARKETING]/[RENEWING YOUR MARKETING OPT-OUT]**

• The [ABC group of companies] is providing this notice.

• [Optional: Federal law gives you the right to limit some but not all marketing from the [ABC] companies. Federal law also requires us to give you this notice to tell you about your choice to limit marketing from the [ABC] companies.]

• You previously chose to limit the [ABC] companies, such as the [ABC

credit card, insurance, and securities] affiliates, from marketing their products or services to you based on your personal information that they receive from other ABC companies. This information includes your [income], your [account history], and your [credit score].

• Your choice has expired or is about to expire.

To renew your choice to limit marketing for [x] more years, contact us [include all that apply]:

- By telephone: 1-(877) ###-####
- On the Web: *www.—.com*
- By mail: Check the box and complete the form below, and send the form to:

[Company name]  
[Company address]

—Renew my choice to limit marketing for [x] more years.

**C-5—MODEL FORM FOR VOLUNTARY “NO MARKETING” NOTICE—[YOUR CHOICE TO STOP MARKETING]**

• [Name of Affiliate] is providing this notice.

• You may choose to stop all marketing from us and our affiliates.

• [Your choice to stop marketing from us and our affiliates will apply until you tell us to change your choice.]

To stop all marketing, contact us [include all that apply]:

- By telephone: 1 (877) ###-####
- On the Web: *www.—.com*
- By mail: Check the box and complete the form below, and send the form to:

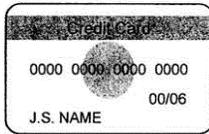
[Company name]  
[Company address]

—Do not market to me.

**APPENDIX D TO PART 1022—MODEL FORMS FOR FIRM OFFERS OF CREDIT OR INSURANCE**

In order to comply with §1022.54, the following model notices may be used:

- (a) *English language model notice.* (1) *Short notice.*



# Here's a Line About Credit

J.S. Name  
 12345 Friendly Street  
 City, ST 12345

PFOR 00 MON  
 FIXED ABC

Dear Ms. Name,

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a the last century, we saw how technology was changing the way people do things. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a the last century, we saw how technology was changing the way people do things.

BALANCE TR  
 FOR 00 MONTHS

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a the last century, we saw how technology was changing the way people do things.

NO MONTHS FEE

Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way peop. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit a smart kind of credit card.

INTERNET SECURITY  
 SECURITY

So we set out to create a smart kind of credit card. Back in the last century, we saw how technology was changing the way people. Back in the last century, we saw how technology was changing the way people do things. So we set out to create a smart kind of credit card.

ONLINE FRAUD PRO  
 GUARANTEE

We saw how technology was changing the way people do things. So we set out to create a smart kind of credit card. Back in the last century, we saw how technology.

YOUR BALANCE  
 PAY YOUR BILL

Sincerely,

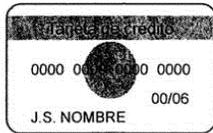
FEE-FREE REWARDS  
 PROGRAM

John W. Doe  
 President, Credit Card Company

**You can choose to stop receiving "prescreened" offers of [credit or insurance] from this and other companies by calling toll-free [toll-free number]. See PRESCREEN & OPT-OUT NOTICE on other side [or other location] for more information about prescreened offers.**

(2) Long notice.





# Aquí están líneas crédito

J.S. Nombre  
 1234 Calle Amistosa  
 Ciudad, ST 12345

PFOR 00 MON FIJO ABC

Estimada Señora Nombre:

En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

■  
 TRANSFERENCIA DE  
 BALANCE POR MESES

Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

■  
 SIN CUOTA MENSUAL

Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente, vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

■  
 PAGO ELECTRÓNICO  
 SEGURO

Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. En el siglo pasado vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas. Así que creamos una tarjeta de crédito inteligente. Vimos como la tecnología estaba cambiando la manera en que la gente hace las cosas.

■  
 PROTECCIÓN CONTRA  
 FRAUDE EN LÍNEA  
 GARANTIZADO

Sinceramente,

■  
 SU BALANCE PAGA SU  
 CUENTA

John W. Doe  
 Presidente, Compañía

■  
 PROGRAMA DE  
 RECOMPENSAS SIN  
 CUENTA

**Usted puede elegir no recibir más "ofertas de [crédito o seguro] pre-investigadas" de esta y otras compañías llamando sin cargos al [número sin cargo]. Ver la NOTIFICACIÓN DE PRE-INVESTIGACIÓN Y EXCLUSIÓN VOLUNTARIA al otro lado de esta página [o en otro lugar] para más información sobre ofertas pre-investigadas.**

(2) Long notice.



APPENDIX E TO PART 1022—INTER-AGENCY GUIDELINES CONCERNING THE ACCURACY AND INTEGRITY OF INFORMATION FURNISHED TO CONSUMER REPORTING AGENCIES

The Bureau encourages voluntary furnishing of information to consumer reporting agencies. Section 1022.42 of this part requires each furnisher to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of the information it furnishes to consumer reporting agencies. Under §1022.42(b) of this part, a furnisher must consider the guidelines set forth below in developing its policies and procedures. In establishing these policies and procedures, a furnisher may include any of its existing policies and procedures that are relevant and appropriate. Section 1022.42(c) requires each furnisher to review its policies and procedures periodically and update them as necessary to ensure their continued effectiveness.

I. NATURE, SCOPE, AND OBJECTIVES OF POLICIES AND PROCEDURES

(a) *Nature and Scope.* Section 1022.42(a) of this part requires that a furnisher's policies and procedures be appropriate to the nature, size, complexity, and scope of the furnisher's activities. In developing its policies and procedures, a furnisher should consider, for example:

- (1) The types of business activities in which the furnisher engages;
- (2) The nature and frequency of the information the furnisher provides to consumer reporting agencies; and
- (3) The technology used by the furnisher to furnish information to consumer reporting agencies.

(b) *Objectives.* A furnisher's policies and procedures should be reasonably designed to promote the following objectives:

- (1) To furnish information about accounts or other relationships with a consumer that is accurate, such that the furnished information:
  - (i) Identifies the appropriate consumer;
  - (ii) Reflects the terms of and liability for those accounts or other relationships; and
  - (iii) Reflects the consumer's performance and other conduct with respect to the account or other relationship;
- (2) To furnish information about accounts or other relationships with a consumer that has integrity, such that the furnished information:
  - (i) Is substantiated by the furnisher's records at the time it is furnished;
  - (ii) Is furnished in a form and manner that is designed to minimize the likelihood that the information may be incorrectly reflected in a consumer report; thus, the furnished information should:

(A) Include appropriate identifying information about the consumer to whom it pertains; and

(B) Be furnished in a standardized and clearly understandable form and manner and with a date specifying the time period to which the information pertains; and

(iii) Includes the credit limit, if applicable and in the furnisher's possession;

(3) To conduct reasonable investigations of consumer disputes and take appropriate actions based on the outcome of such investigations; and

(4) To update the information it furnishes as necessary to reflect the current status of the consumer's account or other relationship, including, for example:

(i) Any transfer of an account (*e.g.*, by sale or assignment for collection) to a third party; and

(ii) Any cure of the consumer's failure to abide by the terms of the account or other relationship.

II. ESTABLISHING AND IMPLEMENTING POLICIES AND PROCEDURES

In establishing and implementing its policies and procedures, a furnisher should:

(a) Identify practices or activities of the furnisher that can compromise the accuracy or integrity of information furnished to consumer reporting agencies, such as by:

- (1) Reviewing its existing practices and activities, including the technological means and other methods it uses to furnish information to consumer reporting agencies and the frequency and timing of its furnishing of information;
- (2) Reviewing its historical records relating to accuracy or integrity or to disputes; reviewing other information relating to the accuracy or integrity of information provided by the furnisher to consumer reporting agencies; and considering the types of errors, omissions, or other problems that may have affected the accuracy or integrity of information it has furnished about consumers to consumer reporting agencies;

(3) Considering any feedback received from consumer reporting agencies, consumers, or other appropriate parties;

(4) Obtaining feedback from the furnisher's staff; and

(5) Considering the potential impact of the furnisher's policies and procedures on consumers.

(b) Evaluate the effectiveness of existing policies and procedures of the furnisher regarding the accuracy and integrity of information furnished to consumer reporting agencies; consider whether new, additional, or different policies and procedures are necessary; and consider whether implementation of existing policies and procedures should be modified to enhance the accuracy

and integrity of information about consumers furnished to consumer reporting agencies.

(c) Evaluate the effectiveness of specific methods (including technological means) the furnisher uses to provide information to consumer reporting agencies; how those methods may affect the accuracy and integrity of the information it provides to consumer reporting agencies; and whether new, additional, or different methods (including technological means) should be used to provide information to consumer reporting agencies to enhance the accuracy and integrity of that information.

### III. SPECIFIC COMPONENTS OF POLICIES AND PROCEDURES

In developing its policies and procedures, a furnisher should address the following, as appropriate:

(a) Establishing and implementing a system for furnishing information about consumers to consumer reporting agencies that is appropriate to the nature, size, complexity, and scope of the furnisher's business operations.

(b) Using standard data reporting formats and standard procedures for compiling and furnishing data, where feasible, such as the electronic transmission of information about consumers to consumer reporting agencies.

(c) Maintaining records for a reasonable period of time, not less than any applicable recordkeeping requirement, in order to substantiate the accuracy of any information about consumers it furnishes that is subject to a direct dispute.

(d) Establishing and implementing appropriate internal controls regarding the accuracy and integrity of information about consumers furnished to consumer reporting agencies, such as by implementing standard procedures and verifying random samples of information provided to consumer reporting agencies.

(e) Training staff that participates in activities related to the furnishing of information about consumers to consumer reporting agencies to implement the policies and procedures.

(f) Providing for appropriate and effective oversight of relevant service providers whose activities may affect the accuracy or integrity of information about consumers furnished to consumer reporting agencies to ensure compliance with the policies and procedures.

(g) Furnishing information about consumers to consumer reporting agencies following mergers, portfolio acquisitions or sales, or other acquisitions or transfers of accounts or other obligations in a manner that prevents re-aging of information, duplicative reporting, or other problems that may similarly affect the accuracy or integrity of the information furnished.

(h) Deleting, updating, and correcting information in the furnisher's records, as appropriate, to avoid furnishing inaccurate information.

(i) Conducting reasonable investigations of disputes.

(j) Designing technological and other means of communication with consumer reporting agencies to prevent duplicative reporting of accounts, erroneous association of information with the wrong consumer(s), and other occurrences that may compromise the accuracy or integrity of information provided to consumer reporting agencies.

(k) Providing consumer reporting agencies with sufficient identifying information in the furnisher's possession about each consumer about whom information is furnished to enable the consumer reporting agency properly to identify the consumer.

(l) Conducting a periodic evaluation of its own practices, consumer reporting agency practices of which the furnisher is aware, investigations of disputed information, corrections of inaccurate information, means of communication, and other factors that may affect the accuracy or integrity of information furnished to consumer reporting agencies.

(m) Complying with applicable requirements under the FCRA and its implementing regulations.

### APPENDICES F–G TO PART 1022 [RESERVED]

### APPENDIX H TO PART 1022—APPENDIX H—MODEL FORMS FOR RISK-BASED PRICING AND CREDIT SCORE DISCLOSURE EXCEPTION NOTICES

1. This appendix contains four model forms for risk-based pricing notices and three model forms for use in connection with the credit score disclosure exceptions. Each of the model forms is designated for use in a particular set of circumstances as indicated by the title of that model form.

2. Model form H-1 is for use in complying with the general risk-based pricing notice requirements in Sec. 1022.72 if a credit score is not used in setting the material terms of credit. Model form H-2 is for risk-based pricing notices given in connection with account review if a credit score is not used in increasing the annual percentage rate. Model form H-3 is for use in connection with the credit score disclosure exception for loans secured by residential real property. Model form H-4 is for use in connection with the credit score disclosure exception for loans that are not secured by residential real property. Model form H-5 is for use in connection with the credit score disclosure exception when no credit score is available for a consumer. Model form H-6 is for use in complying with

the general risk-based pricing notice requirements in Sec. 1022.72 if a credit score is used in setting the material terms of credit. Model form H-7 is for risk-based pricing notices given in connection with account review if a credit score is used in increasing the annual percentage rate. All forms contained in this appendix are models; their use is optional.

3. A person may change the forms by rearranging the format or by making technical modifications to the language of the forms, in each case without modifying the substance of the disclosures. Any such rearrangement or modification of the language of the model forms may not be so extensive as to materially affect the substance, clarity, comprehensibility, or meaningful sequence of the forms. Persons making revisions with that effect will lose the benefit of the safe harbor for appropriate use of Appendix H model forms. A person is not required to conduct consumer testing when rearranging the format of the model forms.

a. Acceptable changes include, for example:

i. Corrections or updates to telephone numbers, mailing addresses, or Web site addresses that may change over time.

ii. The addition of graphics or icons, such as the person's corporate logo.

iii. Alteration of the shading or color contained in the model forms.

iv. Use of a different form of graphical presentation to depict the distribution of credit scores.

v. Substitution of the words "credit" and "creditor" or "finance" and "finance company" for the terms "loan" and "lender."

vi. Including pre-printed lists of the sources of consumer reports or consumer reporting agencies in a "check-the-box" format.

vii. Including the name of the consumer, transaction identification numbers, a date, and other information that will assist in identifying the transaction to which the form pertains.

viii. Including the name of an agent, such as an auto dealer or other party, when providing the "Name of the Entity Providing the Notice."

ix. Until January 1, 2013, substituting "For more information about credit reports and

your rights under Federal law, visit the Federal Reserve Board's Web site at [www.federalreserve.gov](http://www.federalreserve.gov), or the Federal Trade Commission's Web site at [www.ftc.gov](http://www.ftc.gov)." for "For more information about credit reports and your rights under Federal law, visit the Consumer Financial Protection Bureau's Web site at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore)."

b. Unacceptable changes include, for example:

i. Providing model forms on register receipts or interspersed with other disclosures.

ii. Eliminating empty lines and extra spaces between sentences within the same section.

4. If a person uses an appropriate Appendix H model form, or modifies a form in accordance with the above instructions, that person shall be deemed to be acting in compliance with the provisions of §1022.73 or §1022.74, as applicable, of this part. It is intended that appropriate use of Model Form H-3 also will comply with the disclosure that may be required under section 609(g) of the FCRA. Optional language in model forms H-6 and H-7 may be used to direct the consumer to the entity (which may be a consumer reporting agency or the creditor itself, for a proprietary score that meets the definition of a credit score) that provided the credit score for any questions about the credit score, along with the entity's contact information. Creditors may use or not use the additional language without losing the safe harbor, since the language is optional.

H-1 Model form for risk-based pricing notice.

H-2 Model form for account review risk-based pricing notice.

H-3 Model form for credit score disclosure exception for credit secured by one to four units of residential real property.

H-4 Model form for credit score disclosure exception for loans not secured by residential real property.

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

H-6 Model form for risk-based pricing notice with credit score information.

H-7 Model form for account review risk-based pricing notice with credit score information.

**H-1. Model form for risk-based pricing notice**

**[Name of Entity Providing the Notice]  
Your Credit Report[s] and the Price You Pay for Credit**

<b>What is a credit report?</b>	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.
<b>How did we use your credit report[s]?</b>	<p>We used information from your credit report[s] to set the terms of the credit we are offering you, such as the [Annual Percentage Rate/down payment].</p> <p>The terms offered to you may be less favorable than the terms offered to consumers who have better credit histories.</p>
<b>What if there are mistakes in your credit report[s]?</b>	<p>You have a right to dispute any inaccurate information in your credit report[s].</p> <p>If you find mistakes on your credit report[s], contact <b>[insert name of CRA(s)]</b>, which [is/are] the [consumer reporting agency/consumer reporting agencies] from which we obtained your credit report[s].</p> <p>It is a good idea to check your credit report[s] to make sure the information [it contains/they contain] is accurate.</p>
<b>How can you obtain a copy of your credit report[s]?</b>	<p>Under Federal law, you have the right to obtain a copy of your credit report[s] without charge for 60 days after you receive this notice. To obtain your free report[s], contact <b>[insert name of CRA(s)]</b>:</p> <p><i>By telephone:</i> Call toll-free: 1-877-xxx-xxxx</p> <p><i>By mail:</i> Mail your written request to: <b>[Insert address]</b></p> <p><i>On the web:</i> Visit <b>[insert website address]</b></p>
<b>How can you get more information about credit reports?</b>	For more information about credit reports and your rights under Federal law, visit the Consumer Financial Protection Bureau’s website at <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a> .

**H-2. Model form for account review risk-based pricing notice**

**[Name of Entity Providing the Notice]  
Your Credit Report[s] and the Pricing of Your Account**

<b>What is a credit report?</b>	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.
<b>How did we use your credit report[s]?</b>	<p>We have used information from your credit report[s] to review the terms of your account with us.</p> <p>Based on our review of your credit report[s], we have increased the annual percentage rate on your account.</p>
<b>What if there are mistakes in your credit report[s]?</b>	<p>You have a right to dispute any inaccurate information in your credit report[s].</p> <p>If you find mistakes on your credit report[s], contact <b>[insert name of CRA(s)]</b>, which [is/are] [a consumer reporting agency/consumer reporting agencies] from which we obtained your credit report[s].</p> <p>It is a good idea to check your credit report[s] to make sure the information [it contains/they contain] is accurate.</p>
<b>How can you obtain a copy of your credit report[s]?</b>	<p>Under Federal law, you have the right to obtain a copy of your credit report[s] without charge for 60 days after you receive this notice. To obtain your free report[s], contact <b>[insert name of CRA(s)]</b>:</p> <p style="margin-left: 40px;"><i>By telephone:</i>                      Call toll-free: 1-877-xxx-xxxx</p> <p style="margin-left: 40px;"><i>By mail:</i>                                      Mail your written request to: <b>[Insert address]</b></p> <p style="margin-left: 40px;"><i>On the web:</i>                                      Visit <b>[insert website address]</b></p>
<b>How can you get more information about credit reports?</b>	For more information about credit reports and your rights under Federal law, visit the Consumer Financial Protection Bureau’s website at <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a> .

**H-3. Model form for credit score disclosure exception for loans secured by one to four units of residential real property**

[Name of Entity Providing the Notice]  
**Your Credit Score and the Price You Pay for Credit**

<b>Your Credit Score</b>	
<b>Your credit score</b>	[Insert credit score] Source: [Insert source]      Date: [Insert date score was created]

<b>Understanding Your Credit Score</b>															
<b>What you should know about credit scores</b>	<p>Your credit score is a number that reflects the information in your credit report.</p> <p>Your 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.</p> <p>Your credit score can change, depending on how your credit history changes.</p>														
<b>How we use your credit score</b>	Your credit score can affect whether you can get a loan and how much you will have to pay for that loan.														
<b>The range of scores</b>	<p>Scores range from a low of [Insert bottom number in the range] to a high of [Insert top number in the range].</p> <p>Generally, the higher your score, the more likely you are to be offered better credit terms.</p>														
<b>How your score compares to the scores of other consumers</b>	<div style="text-align: center;"> <table border="1"> <caption>Percentage of Consumers by Score Range</caption> <thead> <tr> <th>Score Range</th> <th>% of Consumers</th> </tr> </thead> <tbody> <tr> <td>[0-100]</td> <td>10%</td> </tr> <tr> <td>[101-200]</td> <td>15%</td> </tr> <tr> <td>[201-300]</td> <td>20%</td> </tr> <tr> <td>[301-400]</td> <td>30%</td> </tr> <tr> <td>[401-500]</td> <td>15%</td> </tr> <tr> <td>[501-600]</td> <td>10%</td> </tr> </tbody> </table> </div> <p>[or] [Your credit score ranks higher than [X] percent of U.S. consumers.]</p>	Score Range	% of Consumers	[0-100]	10%	[101-200]	15%	[201-300]	20%	[301-400]	30%	[401-500]	15%	[501-600]	10%
Score Range	% of Consumers														
[0-100]	10%														
[101-200]	15%														
[201-300]	20%														
[301-400]	30%														
[401-500]	15%														
[501-600]	10%														

<b>Understanding Your Credit Score (continued)</b>	
<b>Key factors that adversely affected your credit score</b>	<p>[Insert first factor]                      [Insert second factor]                      [Insert third factor]                      [Insert fourth factor]                      [Insert fifth factor, if applicable]</p>

<b>Checking Your Credit Report</b>	
<b>What if there are mistakes in your credit report?</b>	<p>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.</p> <p>It is a good idea to check your credit report to make sure the information it contains is accurate.</p>
<b>How can you obtain a copy of your credit report?</b>	<p>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.</p> <p>To order your free annual credit report—</p> <p><i>By telephone:</i> Call toll-free: 1-877-322-8228</p> <p><i>On the web:</i> Visit <a href="http://www.annualcreditreport.com">www.annualcreditreport.com</a></p> <p><i>By mail:</i> Mail your completed Annual Credit Report Request Form (which you can obtain from the Federal Trade Commission’s website at <a href="http://www.ftc.gov/bcp/online/include/requestformfinal.pdf">http://www.ftc.gov/bcp/online/include/requestformfinal.pdf</a>) to:</p> <p style="text-align: center;">Annual Credit Report Request Service                      P.O. Box 105281                      Atlanta, GA 30348-5281</p>
<b>How can you get more information?</b>	<p>For more information about credit reports and your rights under Federal law, visit the Consumer Financial Protection Bureau’s website at <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a>.</p>

**Notice to the Home Loan Applicant**

In connection with your application for a home loan, the lender must disclose to you the score that a consumer reporting agency distributed to users and the lender used in connection with your home loan, and the key factors affecting your credit scores.

The credit score is a computer generated summary calculated at the time of the request and based on information that a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit scoring technologies change.

Because the score is based on information in your credit history, it is very important that you review the credit-related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

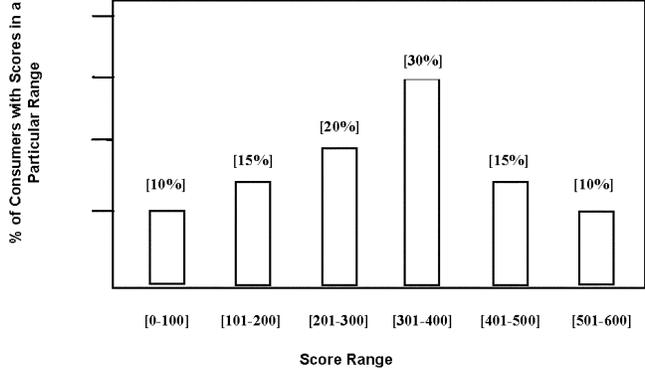
If you have questions about your credit score or the credit information that is furnished to you, contact the consumer reporting agency at the address and telephone number provided with this notice, or contact the lender, if the lender developed or generated the credit score. The consumer reporting agency plays no part in the decision to take any action on the loan application and is unable to provide you with specific reasons for the decision on a loan application.

If you have questions concerning the terms of the loan, contact the lender.

**H-4. Model form for credit score disclosure exception for loans not secured by residential real property**

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

Your Credit Score	
Your credit score	[Insert credit score]
	Source: [Insert source]      Date: [Insert date score was created]

Understanding Your Credit Score	
<b>What you should know about credit scores</b>	<p>Your credit score is a number that reflects the information in your credit report.</p> <p>Your 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.</p> <p>Your credit score can change, depending on how your credit history changes.</p>
<b>How we use your credit score</b>	Your credit score can affect whether you can get a loan and how much you will have to pay for that loan.
<b>The range of scores</b>	<p>Scores range from a low of [Insert bottom number in the range] to a high of [Insert top number in the range].</p> <p>Generally, the higher your score, the more likely you are to be offered better credit terms.</p>
<b>How your score compares to the scores of other consumers</b>	 <p>[or] [Your credit score ranks higher than [X] percent of U.S. consumers.]</p>

<b>Checking Your Credit Report</b>	
<b>What if there are mistakes in your credit report?</b>	<p>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.</p> <p>It is a good idea to check your credit report to make sure the information it contains is accurate.</p>
<b>How can you obtain a copy of your credit report?</b>	<p>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.</p> <p>To order your free annual credit report—</p> <p><i>By telephone:</i> Call toll-free: 1-877-322-8228</p> <p><i>On the web:</i> Visit <a href="http://www.annualcreditreport.com">www.annualcreditreport.com</a></p> <p><i>By mail:</i> Mail your completed Annual Credit Report Request Form (which you can obtain from the Federal Trade Commission’s website at <a href="http://www.ftc.gov/bcp/conline/include/requestformfinal.pdf">http://www.ftc.gov/bcp/conline/include/requestformfinal.pdf</a>) to:</p> <p>Annual Credit Report Request Service P.O. Box 105281 Atlanta, GA 30348-5281</p>
<b>How can you get more information?</b>	<p>For more information about credit reports and your rights under Federal law, visit the Consumer Financial Protection Bureau’s website at <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a>.</p>

**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**

<b>Your Credit Score</b>	
<b>Your credit score</b>	Your credit score is not available from <b>[insert name of CRA]</b> , which is a consumer reporting agency, because they may not have enough information about your credit history to calculate a score.
<b>What you should know about credit scores</b>	<p>A credit score is a number that reflects the information in a credit report.</p> <p>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.</p> <p>A credit score can change, depending on how a consumer’s credit history changes.</p>
<b>Why credit scores are important</b>	<p>Credit scores are important because consumers who have higher credit scores generally will get more favorable credit terms.</p> <p>Not having a credit score can affect whether you can get a loan and how much you will have to pay for that loan.</p>
<b>Checking Your Credit Report</b>	
<b>What if there are mistakes in your credit report?</b>	<p>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.</p> <p>It is a good idea to check your credit report to make sure the information it contains is accurate.</p>
<b>How can you obtain a copy of your credit report?</b>	<p>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.</p> <p>To order your free annual credit report—</p> <p><i>By telephone:</i> Call toll-free: 1-877-322-8228</p> <p><i>On the web:</i> Visit <a href="http://www.annualcreditreport.com">www.annualcreditreport.com</a></p> <p><i>By mail:</i> Mail your completed Annual Credit Report Request</p>

	<p>Form (which you can obtain from the Federal Trade Commission’s website at <a href="http://www.ftc.gov/bcp/online/include/requestformfinal.pdf">http://www.ftc.gov/bcp/online/include/requestformfinal.pdf</a>) to:</p> <p>Annual Credit Report Request Service P.O. Box 105281 Atlanta, GA 30348-5281</p>
<p><b>How can you get more information?</b></p>	<p>For more information about credit reports and your rights under Federal law, visit the Consumer Financial Protection Bureau’s website at <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a>.</p>

**H-6. Model form for risk-based pricing notice with credit score information**

[Name of Entity Providing the Notice]  
**Your Credit Report[s] and the Price You Pay for Credit**

<b>What is a credit report?</b>	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.
<b>How did we use your credit report[s]?</b>	<p>We used information from your credit report[s] to set the terms of the credit we are offering you, such as the [Annual Percentage Rate/down payment].</p> <p>The terms offered to you may be less favorable than the terms offered to consumers who have better credit histories.</p>
<b>What if there are mistakes in your credit report[s]?</b>	<p>You have a right to dispute any inaccurate information in your credit report[s].</p> <p>If you find mistakes on your credit report[s], contact <b>[insert name of CRA(s)]</b>, which [is/are] the [consumer reporting agency/consumer reporting agencies] from which we obtained your credit report[s].</p> <p>It is a good idea to check your credit report[s] to make sure the information [it contains/they contain] is accurate.</p>
<b>How can you obtain a copy of your credit report[s]?</b>	<p>Under Federal law, you have the right to obtain a copy of your credit report[s] without charge for 60 days after you receive this notice. To obtain your free report[s], contact <b>[insert name of CRA(s)]</b>:</p> <p><i>By telephone:</i>                      Call toll-free: 1-877-xxx-xxxx</p> <p><i>By mail:</i>                                      Mail your written request to: <b>[insert address]</b></p> <p><i>On the web:</i>                                      Visit <b>[insert website address]</b></p>
<b>How can you get more information about credit reports?</b>	For more information about credit reports and your rights under Federal law, visit the Consumer Financial Protection Bureau’s website at <a href="http://www.consumerfinance.gov/learnmore">www.consumerfinance.gov/learnmore</a> .

**Your Credit Score and Understanding Your Credit Score**

<p><b>Your credit score</b></p>	<p><b>[Insert credit score]</b></p> <p>Source: <b>[Insert source]</b>                      Date: <b>[Insert date score was created]</b></p>
<p><b>What you should know about credit scores</b></p>	<p>Your credit score is a number that reflects the information in your credit report. We used your credit score to set the terms of credit we are offering you.</p> <p>Your credit score can change, depending on how your credit history changes.</p>
<p><b>The range of scores</b></p>	<p>Scores range from a low of <b>[insert bottom number in the range]</b> to a high of <b>[insert top number in the range]</b>.</p>
<p><b>Key factors that adversely affected your credit score</b></p>	<p><b>[Insert first factor]</b>  <b>[Insert second factor]</b>  <b>[Insert third factor]</b>  <b>[Insert fourth factor]</b>  <b>[Insert number of enquiries as a key factor, if applicable]</b></p>
<p><b>[How can you get more information about your credit score?]</b></p>	<p>[If you have any questions regarding your credit score, you should contact [entity that provided the credit score] at:  Address:  _____  _____  _____</p> <p>[Toll-free] Telephone number: _____]</p>



**Your Credit Score and Understanding Your Credit Score**

<b>Your credit score</b>	<p><b>[Insert credit score]</b></p> <p>Source: <b>[Insert source]</b>                      Date: <b>[Insert date score was created]</b></p>
<b>What you should know about credit scores</b>	<p>Your credit score is a number that reflects the information in your credit report. We used your credit score to set the terms of credit we are offering you.</p> <p>Your credit score can change, depending on how your credit history changes.</p>
<b>The range of scores</b>	<p>Scores range from a low of <b>[insert bottom number in the range]</b> to a high of <b>[insert top number in the range]</b>.</p>
<b>Key factors that adversely affected your credit score</b>	<p><b>[Insert first factor]</b>  <b>[Insert second factor]</b>  <b>[Insert third factor]</b>  <b>[Insert fourth factor]</b>  <b>[Insert number of enquiries as a key factor, if applicable]</b></p>
<b>[How can you get more information about your credit score?]</b>	<p>[If you have any questions regarding your credit score, you should contact [entity that provided the credit score] at:  Address:  _____  _____  _____</p> <p>[Toll-free] Telephone number: _____]</p>

APPENDIX I TO PART 1022—SUMMARY OF CONSUMER IDENTITY THEFT RIGHTS

The prescribed form for this summary is a disclosure that is substantially similar to the Bureau’s model summary with all information clearly and prominently displayed. A summary should accurately reflect changes

to those items that may change over time (such as telephone numbers) to remain in compliance. Translations of this summary will be in compliance with the Bureau’s prescribed model, provided that the translation is accurate and that it is provided in a language used by the recipient consumer.

*Para información en español, visite [www.consumerfinance.gov](http://www.consumerfinance.gov) o escriba a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.*

### Remedying the Effects of Identity Theft

You are receiving this information because you have notified a consumer reporting agency that you believe that you are a victim of identity theft. Identity theft occurs when someone uses your name, Social Security number, date of birth, or other identifying information, without authority, to commit fraud. For example, someone may have committed identity theft by using your personal information to open credit card account or get a loan in your name. For more information, visit [www.consumerfinance.gov](http://www.consumerfinance.gov) or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

The Fair Credit Reporting Act (FCRA) gives you specific rights when you are, or believe that you are, the victim of identity theft. Here is a brief summary of the rights designed to help you recover from identity theft.

- 1. You have the right to ask the nationwide consumer reporting agencies place “fraud alerts” in your file** to let potential creditors and others know that you may be a victim of identity theft. A fraud alert can make it more difficult for someone to get credit in your name because it tells creditors to follow certain procedures to protect you. It also may delay your ability to obtain credit. You may place a fraud alert in your file by calling just one of the three nationwide consumer reporting agencies. As soon as that agency processes your fraud alert, it will notify the other two, which then also must place fraud alerts in your file.

- Equifax: 1-800-XXX-XXXX; [www.equifax.com](http://www.equifax.com)
- Experian: 1-800-XXX-XXXX; [www.experian.com](http://www.experian.com)
- Trans Union: 1800-XXX-XXXX; [www.transunion.com](http://www.transunion.com)

An initial fraud alert stays in your file for at least 90 days. An extended alert stays in your file for seven years. To place either of these alerts, a consumer reporting agency will require you to provide appropriate proof of your identity, which may include your Social Security number. If you ask for an extended alert, you will have to provide an identity theft report. An identity theft report includes a copy of a report you have filed with a federal, state, or local law enforcement agency, and additional information a consumer reporting agency may require you to submit. For more detailed information about the identity theft report, visit [www.consumerfinance.gov](http://www.consumerfinance.gov).

- 2. You have the right to free copies of the information in your file (your “file disclosure”).** An initial fraud alert entitles you to a copy of all information in your file at each of the three nationwide agencies, and an extended alert entitles you to two free file disclosures in a 12-month period following the placing of the alert. These additional disclosures may help you detect signs of fraud, for example, whether fraudulent accounts have been open in your name or whether someone has reported a change in your address. Once a year, you also have the right to a free copy of the information in your file.

at any consumer reporting agency, if you believe it has inaccurate information due to fraud, such as identity theft. You also have the ability to obtain additional free file disclosures under other provisions of the FCRA. See [www.ftc.gov/credit](http://www.ftc.gov/credit).

3. **You have the right to obtain documents relating to fraudulent transactions made or accounts opened using your personal information.** A creditor or other business must give you copies of applications and other business records relating to transactions and accounts that resulted from the theft of your identity, if you ask for them in writing. A business may ask you for proof of your identity, a police report, and an affidavit before giving you the documents. It also may specify an address for you to send your request. Under certain circumstances, a business can refuse to provide you with these documents. See [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft).
4. **You have the right to obtain information from a debt collector.** If you ask, a debt collector must provide you with certain information about the debt you believe was incurred in your name by an identity thief – like the name of the creditor and the amount of the debt.
5. **If you believe information in your file results from identity theft, you have the right to ask that a consumer reporting agency block that information from your file.** An identity thief may run up bills in your name and not pay them. Information about the unpaid bills may appear on your consumer report. Should you decide to ask a consumer reporting agency to block the reporting of this information, you must identify the information to block, and provide the consumer reporting agency with proof of your identity and a copy of your *identity theft report*. The consumer reporting agency can refuse or cancel your request for a block if, for example, you don't provide the necessary documentation, or where the block results from an error or a material misrepresentation of fact made by you. If the agency declines or rescinds the block, it must notify you. Once a debt resulting from identity theft has been blocked, a person or business with notice of the block may not sell, transfer, or place the debt for collection.
6. **You also may prevent businesses from reporting information about you to consumer reporting agencies if you believe the information is a result of identity theft.** To do so, you must send your request to the address specified by the business that reports the information to the consumer reporting agency. The business will expect you to identify what information you do not want reported and to provide an *identity theft report*.

To learn more about identity theft and how to deal with its consequences, visit [www.consumer.gov/idtheft](http://www.consumer.gov/idtheft), or write to the FTC. You may have additional rights under state law. For more information, contact your local consumer protection agency or your state attorney general.

In addition to the new rights and procedures to help consumers deal with the effects of identity theft, the FCRA has many other important consumer protections. They are described in more detail at [www.ftc.gov/credit](http://www.ftc.gov/credit).

## APPENDIX J TO PART 1022 [RESERVED]

## APPENDIX K TO PART 1022—SUMMARY OF CONSUMER RIGHTS

The prescribed form for this summary is a disclosure that is substantially similar to the Bureau's model summary with all information clearly and prominently displayed. The list of Federal regulators that is included in the Bureau's prescribed summary

may be provided separately so long as this is done in a clear and conspicuous way. A summary should accurately reflect changes to those items that may change over time (*e.g.*, dollar amounts, or telephone numbers and addresses of Federal agencies) to remain in compliance. Translations of this summary will be in compliance with the Bureau's prescribed model, provided that the translation is accurate and that it is provided in a language used by the recipient consumer.

Para informacion en español, visite [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) o escriba a la Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

## A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) promotes the accuracy, fairness, and privacy of information in the files of consumer reporting agencies. There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (such as agencies that sell information about check writing histories, medical records, and rental history records). Here is a summary of your major rights under the FCRA. For more information, including information about additional rights, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) or write to: Consumer Financial Protection Bureau, 1700 G Street N.W., Washington, DC 20006.

- **You must be told if information in your file has been used against you.** Anyone who uses a credit report another type of consumer report to deny your application for credit, insurance, or employment – or to take another adverse action against you – must tell you, and must give you the name, address, and phone number of the agency that provided the information.

- **You have the right to know what is in your file.** You may request and obtain all the information about you in the files of a consumer reporting agency (your “file disclosure”). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:

- a person has taken adverse action against you because of information in your credit report;
- you are the victim of identity theft and place a fraud alert in your file;
- your file contains inaccurate information as a result of fraud;
- you are on public assistance;
- you are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for additional information.

- **You have the right to ask for a credit score.** Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

- **You have the right to dispute incomplete or inaccurate information.** If you identify information in your file that is incomplete or inaccurate, and report it to the consumer reporting agency, the agency must investigate unless your dispute is frivolous. See [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) for an explanation of dispute procedures.

- **Consumer reporting agencies must correct or delete inaccurate, incomplete, or unverifiable information.** Inaccurate, incomplete or unverifiable information must be removed or corrected, usually within 30 days. However, a consumer reporting agency may continue to report information it has verified as accurate.

- **Consumer reporting agencies may not report outdated negative information.** In most cases, a consumer reporting agency may not report negative information that is more than seven years old, or bankruptcies that are more than 10 years old.
  - **Access to your file is limited.** A consumer reporting agency may provide information about you only to people with a valid need – usually to consider an application with a creditor, insurer, employer, landlord, or other business. The FCRA specifies those with a valid need for access.
  - **You must give your consent for reports to be provided to employers.** A consumer reporting agency may not give out information about you to your employer, or a potential employer, without your written consent given to the employer. Written consent generally is not required in the trucking industry. For more information, go to [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).
  - **You may limit “prescreened” offers of credit and insurance you get based on information in your credit report.** Unsolicited “prescreened” offers for credit and insurance must include a toll-free phone number you can call if you choose to remove your name and address from the lists these offers are based on. You may opt out with the nationwide credit bureaus at 1-800-XXX-XXXX.
  - **You may seek damages from violators.** If a consumer reporting agency, or in some cases, a user of consumer reports or a furnisher of information to a consumer reporting agency violates the FCRA, you may be able to sue in state or federal court.
  - **Identity theft victims and active duty military personnel have additional rights.** For more information, visit [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).
- States may enforce the FCRA, and many states have their own consumer reporting laws. In some cases, you may have more rights under state law. For more information, contact your state or local consumer protection agency or your state Attorney General. For information about your federal rights, contact:**

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TYPE OF BUSINESS:	CONTACT:
<p>1.a. Banks, savings associations, and credit unions with total assets of over \$10 billion and their affiliates.</p> <p>b. Such affiliates that are not banks, savings associations, or credit unions also should list, in addition to the Bureau:</p>	<p>a. Bureau of Consumer Financial Protection 1700 G Street NW Washington, DC 20006</p> <p>b. Federal Trade Commission: Consumer Response Center – FCRA Washington, DC 20580 (877) 382-4357</p>
<p>2. To the extent not included in item 1 above:</p> <p>a. National banks, federal savings associations, and federal branches and federal agencies of foreign banks</p> <p>b. State member banks, 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 25 A of the Federal Reserve Act</p> <p>c. Nonmember Insured Banks, Insured State Branches of Foreign Banks, and insured state savings associations</p> <p>d. Federal Credit Unions</p>	<p>a. Office of the Comptroller of the Currency Customer Assistance Group 1301 McKinney Street, Suite 3450 Houston, TX 77010-9050</p> <p>b. Federal Reserve Consumer Help Center P.O. Box 1200 Minneapolis, MN 55480</p> <p>c. FDIC Consumer Response Center 1100 Walnut Street, Box #11 Kansas City, MO 64106</p> <p>d. National Credit Union Administration Office of Consumer Protection (OCP) Division of Consumer Compliance and Outreach (DCCO) 1775 Duke Street Alexandria, VA 22314</p>
<p>3. Air carriers</p>	<p>Asst. General Counsel for Aviation Enforcement &amp; Proceedings Department of Transportation 400 Seventh Street SW Washington, DC 20590</p>
<p>4. Creditors Subject to Surface Transportation Board</p>	<p>Office of Proceedings, Surface Transportation Board Department of Transportation 1925 K Street NW Washington, DC 20423</p>
<p>5. Creditors Subject to Packers and Stockyards Act</p>	<p>Nearest Packers and Stockyards Administration area supervisor</p>
<p>6. Small Business Investment Companies</p>	<p>Associate Deputy Administrator for Capital Access United States Small Business Administration 409 Third Street, SW, 8th Floor Washington, DC 20416</p>
<p>7. Brokers and Dealers</p>	<p>Securities and Exchange Commission 100 F St NE Washington, DC 20549</p>
<p>8. Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks, and Production Credit Associations</p>	<p>Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090</p>
<p>9. Retailers, Finance Companies, and All Other Creditors Not Listed Above</p>	<p>FTC Regional Office for region in which the creditor operates or Federal Trade Commission: Consumer Response Center – FCRA Washington, DC 20580 (877) 382-4357</p>

APPENDIX L TO PART 1022—STANDARDIZED FORM FOR REQUESTING ANNUAL FILE DISCLOSURES

REQUEST FOR FREE CREDIT REPORT

**Note to Consumers:** You have the right to obtain a free copy of your credit report once every 12 months (also known as an “annual file disclosure”), from each of the nationwide consumer reporting agencies. Your report may contain information on where you work and live, the credit accounts that have been opened in your name, if you’ve paid your bills on time, and whether you have been sued, arrested, or have filed for bankruptcy. Businesses use this information in making decisions about whether to offer you credit, insurance, or employment, and on what terms.

Use this form to request your credit report from any, or all, of the nationwide consumer reporting agencies.

The following information is required to process your request:

Your Full Name: \_\_\_\_\_

Your Street Address: \_\_\_\_\_

Your City, State & Zip Code: \_\_\_\_\_

Your Telephone Numbers (with area code): Day: \_\_\_\_\_  
Evening: \_\_\_\_\_

Your Social Security number: \_\_\_\_\_ Your Date of Birth \_\_\_\_\_

Place a check next to each credit report you want.

I want a credit report from each of the nationwide consumer reporting agencies

OR

I want a credit report from:

[name of nationwide consumer reporting agency]

[name of nationwide consumer reporting agency]

[name of nationwide consumer reporting agency]

Please check how you would like to receive your report. (Note: because of the need to accurately identify you before we send you your credit report, we may not be able to offer every delivery method to every consumer. We will try to honor your preference.)

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\_\_\_\_\_ [available delivery method]

\_\_\_\_\_ [available delivery method]

\_\_\_\_\_ [available delivery method]

\_\_\_\_\_ Check here if, for security purposes, you want your copy of your credit report to include only the last four digits of your Social Security number (SSN), rather than your entire SSN.

For more information on obtaining your free credit report, visit [insert appropriate website address], call [insert appropriate telephone number], or write to [insert appropriate address].

Mail this form to:  
[insert appropriate address]

Your report(s) will be sent within 15 days after we receive your request.

**APPENDIX M TO PART 1022—NOTICE OF  
FURNISHER RESPONSIBILITIES**

The prescribed form for this disclosure is a separate document that is substantially similar to the Bureau's model notice with all

information clearly and prominently displayed. Consumer reporting agencies may limit the disclosure to only those items that they know are relevant to the furnisher that will receive the notice.

All furnishers of consumer reports must comply with all applicable regulations, including regulations promulgated after this notice was first prescribed in 2004. Information about applicable regulations currently in effect can be found at the Consumer Financial Protection Bureau's website, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

**NOTICE TO FURNISHERS OF INFORMATION:  
OBLIGATIONS OF FURNISHERS UNDER THE FCRA**

The federal Fair Credit Reporting Act (FCRA), 15 U.S.C 1681-1681y, imposes responsibilities on all persons who furnish information to consumer reporting agencies (CRAs). These responsibilities are found in Section 623 of the FCRA, 15 U.S.C 1681s-2. State law may impose additional requirements on furnishers. All furnishers of information to CRAs should become familiar with the applicable laws and may want to consult with counsel to ensure that they are in compliance. The text of the FCRA is set forth in full at the Bureau of Consumer Financial Protection's website at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore). A list of the sections of the FCRA cross-referenced to the U.S Code is at the end of this document.

Section 623 imposes the following duties upon furnishers:

**Accuracy Guidelines**

The banking and credit union regulators and the CFPB will promulgate guidelines and regulations dealing with the accuracy of information provided to CRAs by furnishers. The regulations and guidelines issued by the CFPB will be available at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore) when they are issued. Section 623(e).

**General Prohibition on Reporting Inaccurate Information**

The FCRA prohibits information furnishers from providing information to a CRA that they know or have reasonable cause to believe is inaccurate. However, the furnisher is not subject to this general prohibition if it clearly and conspicuously specifies an address to which consumers may write to notify the furnisher that certain information is inaccurate. Sections 623(a)(1)(A) and (a)(1)(C).

**Duty to Correct and Update Information**

If at any time a person who regularly and in the ordinary course of business furnishes information to one or more CRAs determines that the information provided is not complete or accurate, the furnisher must promptly provide complete and accurate information to the CRA. In addition, the furnisher must notify all CRAs that received the information of any corrections, and must thereafter report only the complete and accurate information. Section 623(a)(2).

**Duties After Notice of Dispute from Consumer**

If a consumer notifies a furnisher, at an address specified for the furnisher for such notices, that specific information is inaccurate, and the information is, in fact, inaccurate, the furnisher must thereafter report the correct information to CRAs. [Section 623\(a\)\(1\)\(B\)](#).

If a consumer notifies a furnisher that the consumer disputes the completeness or accuracy of any information reported by the furnisher, the furnisher may not subsequently report that information to a CRA without providing notice of the dispute. [Section 623\(a\)\(3\)](#).

The federal banking and credit union regulators and the CFPB will issue regulations that will identify when an information furnisher must investigate a dispute made directly to the furnisher by a consumer. Once these regulations are issued, furnishers must comply with them and complete an investigation within 30 days (or 45 days, if the consumer later provides relevant additional information) unless the dispute is frivolous or irrelevant or comes from a “credit repair organization.” The CFPB regulations will be available at [www.consumerfinance.gov](http://www.consumerfinance.gov). [Section 623\(a\)\(8\)](#).

**Duties After Notice of Dispute from Consumer Reporting Agency**

If a CRA notifies a furnisher that a consumer disputes the completeness or accuracy of information provided by the furnisher, the furnisher has a duty to follow certain procedures. The furnisher must:

- Conduct an investigation and review all relevant information provided by the CRA, including information given to the CRA by consumer. [Sections 623\(b\)\(1\)\(A\) and \(b\)\(1\)\(B\)](#).
- Report the results to the CRA that referred the dispute, and, if the investigation establishes that the information was, in fact, incomplete or inaccurate, report the results to all CRAs to which the furnisher provided the information that complied and maintains files on a nationwide basis. [Section 623\(b\)\(1\)\(C\) and \(b\)\(1\)\(D\)](#).
- Complete the above steps within 30 days from the date the CRA receives the dispute (or 45 days, if the consumer later provides relevant additional information to the CRA). [Section 623\(b\)\(2\)](#).
- Promptly modify or delete the information, or block its reporting. [Section 623\(b\)\(1\)\(E\)](#).

**Duty to Report Voluntary Closing of Credit Accounts**

If a consumer voluntarily closes a credit account, any person who regularly and in the ordinary course of business furnished information to one or more CRAs must report this fact when it provides information to CRAs for the time period in which the account was closed. [Section 623\(a\)\(4\)](#).

**Duty to Report Dates of Delinquencies**

If a furnisher reports information concerning a delinquent account placed for collection, charged to profit or loss, or subject to any similar action, the furnisher must, within 90 days after reporting the information, provide the CRA with the month and the year of the commencement

of the delinquency that immediately preceded the action, so that the agency will know how long to keep the information in the consumer's file. Section 623(a)(5).

Any person, such as a debt collector, that has acquired or is responsible for collecting delinquent accounts and that reports information to CRAs may comply with the requirements of Section 623(a)(5) (until there is a consumer dispute) by reporting the same delinquency date the FCRA by establishing reasonable procedures to obtain and report delinquency dates, or, if a delinquency date cannot be reasonably obtained, by following reasonable procedures to ensure that the date reported precedes the date when the account was placed for collection, charges to profit or loss, or subjected to any similar action. Section 623(a)(5).

#### **Duties of Financial Institutions When Reporting Negative Information**

Financial institutions that furnish information to "nationwide" consumer reporting agencies, as defined in Section 603(p) must notify consumers in writing if they may furnish or have furnished negative information to a CRA. Section 623(a)(7). The Consumer Financial Protection Bureau has prescribed model disclosures, 12 CFR Part 1022, App. B.

#### **Duties When Furnishing Medical Information**

A furnisher whose primary business is providing medical services, products, or devices (and such furnisher's agents or assignees) is a medical information furnisher for the purposes of the FCRA and must notify all CRAs to which it reports of this fact. Section 623(a)(9). This notice will enable CRAs to comply with their duties under Section 604(g) when reporting medical information.

#### **Duties When ID Theft Occurs**

All furnishers must have in place reasonable procedures to respond to notification from CRAs that information furnished is the result of identity theft, and to prevent refurnishing the information in the future. A furnisher is the result of identity theft, and to prevent refurnishing the information in the future. A furnisher may not furnish information that a consumer has identified as resulting from identity theft unless the furnisher subsequently knows or is informed by the consumer that the information is correct. Section 623(a)(6). If a furnisher learns that it had furnished inaccurate information due to identity theft, it must notify each consumer reporting agency of the correct information and must thereafter report only complete and accurate information. Section 623(a)(2). When any furnisher of information is notified pursuant to the procedures set forth in Section 605B that a debt has resulted from identity theft, the furnisher may not sell, transfer, or place for collection the debt except in certain limited circumstances. Section 615(f).

The Consumer Financial Protection Bureau website, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore), has more information about the FCRA.

#### **APPENDIX N TO PART 1022—NOTICE OF USER RESPONSIBILITIES**

The prescribed form for this disclosure is a separate document that is substantially similar to the Bureau's notice with all infor-

mation clearly and prominently displayed. Consumer reporting agencies may limit the disclosure to only those items that they know are relevant to the user that will receive the notice.

All users of consumer reports must comply with all applicable regulations, including regulations promulgated after this notice was first prescribed in 2004. Information about applicable regulations currently in effect can be found at the Consumer Financial Protection Bureau's website, [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

**NOTICE TO USERS OF CONSUMER REPORTS:  
OBLIGATIONS OF USERS UNDER THE FCRA**

The Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Bureau of Consumer Financial Protection's website at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore). At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the Bureau's website. **Users must consult the relevant provisions of the FCRA for details about their obligation under the FCRA.**

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

**I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS**

**A. Users Must Have a Permissible Purpose**

Congress has limited the use of consumer reports to protect consumers' privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are;

- As ordered by a court or a federal grand jury subpoena. [Section 604\(a\)\(1\)](#)
- As instructed by the consumer in writing. [Section 604\(a\)\(2\)](#)
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer's account. [Section 604\(a\)\(3\)\(A\)](#)
- For employment purposes, including hiring and promotion decision, where the consumer has given written permission. [Section 604 \(a\)\(3\)\(B\)](#) and [604\(b\)](#)

- For the underwriting of insurance as a result of an application from a consumer. Section 604(a)(3)(C)
- When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. Section 604(a)(3)(F)(i)
- To review a consumer's account to determine whether the consumer continues to meet the terms of the account. Section 604(a)(3)(F)(ii)
- To determine a consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status. Section 604(a)(3)(D)
- For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. Section 604(a)(3)(E)
- For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. Sections 604(a)(4) and 604(a)(5)

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making "prescreened" unsolicited offers of credit or insurance. Section 604(c). The particular obligations of users of "prescreened" information are described in Section VII below.

#### **B. Users Must Provide Certifications**

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

#### **C. Users Must Notify Consumers When Adverse Actions Are Taken**

The term "adverse action" is defined very broadly by Section 603. "Adverse actions" include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA – such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counteroffer that is accepted by the consumer.

**1. Adverse Actions Based on Information Obtained From a CRA**

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.
- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
- A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer makes a request within 60 days.
- A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

**2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies**

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer's written request.

**3. Adverse Actions Based on Information Obtained From Affiliates**

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C.1 above.

**D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files**

When a consumer has placed a fraud alert, including one relating to identity theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer's alert.

**E. Users Have Obligation When Notified of an Address Discrepancy**

Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports when the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer's file. When this occurs, users must comply with regulations specifying the procedures to be followed, which will be issued by the Consumer Financial Protection Bureau and the banking and credit union regulators. The Consumer Financial Protection Bureau regulations will be available at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

**F. User Have Obligation When Disposing of Records**

Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. The Consumer Financial Protection Bureau, the Securities and Exchange Commission, and the banking and credit union regulators have issued regulation covering disposal. The Consumer Financial Protection Bureau regulations may be found at [www.consumerfinance.gov/learnmore](http://www.consumerfinance.gov/learnmore).

**II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES**

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a consumer on material terms that are materially less favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulation prescribed by the Consumer Financial Protection Bureau.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores.

These persons must

provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

### **III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES**

#### **A. Employment Other Than in the Trucking Industry**

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.
- **Before** taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights. (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. Section 615(b)(2)

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

#### **B. Employment in the Trucking Industry**

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking

company by contacting the company.

#### **IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED**

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)
- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.
- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

#### **V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS**

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

#### **VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION**

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the

medical provider). If the information is to be used for insurance transaction, the consumer must give consent to the user of the report of the report or the information must be coded. If the report is to be used for employment purposes – or in connection with a credit transaction (except as provided in regulation issued by the banking and credit union regulators) – the consumer must provide specific written consent and the medical information to any other person (except where necessary to carry out the purpose for which the information was disclosed, or as permitted by statute, regulation, or order).

#### VII. OBLIGATIONS OF USERS OF “PRESCREENED” LISTS

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of credit or insurance under certain circumstance. Section 603(1), 604(c), 604(E), and 615(d). This practice is known as “prescreening” and typically involves obtaining from a CRA a list of consumers who meet certain preestablished criteria. If any person intends to use prescreened list, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and to grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer’s CRA file was used in connection with the transaction.
- The consumer received the offer because he or she satisfied the criteria for credit worthiness insurability used to screen for the offer.
- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.
- The consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. The statement must include the address and toll-free telephone number of the appropriate notification system.

In addition, the Consumer Financial Protection Bureau has established the format, type size, and manner of the disclosure required by Section 615(d), with which users must comply. The relevant regulation is 12 CFR 1022.54.

## VIII. OBLIGATIONS OF RESELLERS

### A. Disclosure and Certification Requirements

Section 607(e) requires any person who obtains a consumer report for resale to take the following steps:

- Disclose the identity of the end-user to the source CRA.
- Identify to the source CRA each permissible purpose for which the report will be furnished to the end-user.
- Establish and follow reasonable procedures to ensure that reports are resold only for permissible purposes, including procedures to obtain:
  - (1) the identity of all end-users;
  - (2) certifications from all users of each purpose for which reports will be used;
  - and
  - (3) certifications that reports will not be used for any purpose other than the purpose(s) specified to the reseller. Resellers must make reasonable efforts to verify this information before selling the report.

### B. Reinvestigations by Resellers

Under Section 611(f), if a consumer disputes the accuracy or completeness of information in a report prepared by a reseller, the reseller must determine whether this is a result of an action or omission on its part and, if so, correct or delete the information. If not, the reseller must send the dispute to the source CRA for reinvestigation. When any CRA notifies the reseller of the results of an investigation, the reseller must immediately convey the information to the consumer.

### C. Fraud Alerts and Resellers

Section 605A(f) requires resellers who receive fraud alerts or active duty alerts from another consumer reporting agency to include these in their reports.

## IX. LIABILITY FOR VIOLATIONS OF THE FCRA

Failure to comply with the FCRA can result in state government or federal government enforcement actions, as well as private lawsuits. Sections 616, 617, and 621. In addition, any person who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. Section 619.

## PART 1024—REAL ESTATE SETTLEMENT PROCEDURES ACT (REGULATION X)

Sec.

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