Comptroller of the Currency, Treasury

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

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

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

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

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

(ii) A deposit account.

(2) The term board of directors includes:

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

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

(3) Covered account means:

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

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

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

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

(6) Customer means a person that has a covered account with a financial institution or creditor.

Subpart J—Identity Theft Red Flags

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

§ 41.83 Disposal of consumer information.

(a) Definitions as used in this section.

(1) Bank means national banks, Federal branches and agencies of foreign banks, and their respective operating subsidiaries.

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

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

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

(2) Alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.
§ 41.91 Duties of card issuers regarding changes of address.

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

(b) Definitions. For purposes of this section:

(1) Cardholder means a consumer who has been issued a credit or debit card.

(2) Clear and conspicuous means reasonably understandable and designed to call attention to the nature and significance of the information presented.

(c) Address validation requirements. A card issuer must establish and implement reasonable policies and procedures to assess the validity of a change of address if it receives notification of