FEDERAL TRADE COMMISSION

16 CFR Part 601

Notices of Rights and Duties Under the Fair Credit Reporting Act

AGENCY: Federal Trade Commission.

ACTION: Publication of guidance for prescribed notice forms.

SUMMARY: The Federal Trade Commission is publishing three notices that it is required to prescribe under recent amendments to the Fair Credit Reporting Act (FCRA). These are: A summary of consumer rights under the FCRA; a notice setting forth the responsibilities under the FCRA of those who regularly furnish consumer report information to consumer reporting agencies; and a notice setting forth the duties of any person who uses information covered by the FCRA. These notices must be distributed by consumer reporting agencies once the amendments to the FCRA become effective on September 30, 1997. A consumer reporting agency will be in compliance with the FCRA if it provides notices substantially similar to those prescribed by the Commission.

DATES: The amendments become effective September 30, 1997.

ADDRESSES: Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Clarke Brinckerhoff or William Haynes, Attorneys, Division of Credit Practices, Federal Trade Commission, Washington, DC 20580, 202–326–3224.

SUPPLEMENTARY INFORMATION: The Fair Credit Reporting Act (FCRA), originally enacted in 1970,[1] was extensively amended in 1996. Most of the amendments to the law, including those discussed in this notice, go into effect on September 30, 1997.

As amended, the FCRA requires each consumer reporting agency (''CRA, usually a credit bureau) to distribute three types of notices in order to better educate consumers, furnishers and users of consumer report information as to their rights or duties under the law. Section 609(c) of the amended FCRA mandates that each CRA provide, as part of its file disclosure to consumers, a written summary of consumer rights (''summary'' or ''consumer summary'') under the FCRA. Section 607(d) requires each CRA to provide a notice to persons who buy consumer information from the CRA of their responsibilities under the FCRA (''user notice''), and a notice to persons who regularly furnish consumer information to the CRA of their responsibilities under the FCRA (''furnisher notice''). The Federal Trade Commission (''Commission'') is required to prescribe the content of the notices, and, in the case of the consumer summary, the form as well. A CRA complies with the law if it provides the applicable party with a summary or notice that is substantially similar to the one prescribed by the Commission.

On February 28, 1997, the Commission published for comment proposed versions of the three notices (collectively, ''the notices''). The discussion accompanying the proposed notices outlined in detail the relevant FCRA sections, and set forth a number of questions designed to facilitate public comment on the proposals. 62 FR 9123 (1997).

The comment period closed on March 31, 1997. The Commission received 28 comments from credit bureaus and other CRAs, creditors (and other parties that make use of consumer reports and/or furnish information to CRAs), consumers and their representatives, regulatory authorities, and other interested parties. Although the Commission stated that it was requesting comments until March 31, 1997, comments received after that date were taken into account.

This document highlights the principal areas in which the Commission revised the proposed versions of the notices or decided not to do so.

I. Consumer Summary

The comments overwhelmingly supported the content and organization of the proposed summary. Many commenters praised the Commission's effort in offering a proposal that was thorough, understandable, succinct, and user-friendly. None suggested any major revision to the overall presentation. Accordingly, the basic framework of the notice remains unchanged—a two-page document that starts with an introductory paragraph explaining the FCRA very generally, features ten ''bullet'' sections to describe significant consumer FCRA rights, and includes the required list of the federal agencies with FCRA enforcement authority at the end.

A. Principal Revisions Based on Public Comments

1. Additions and Deletions

The amended FCRA provides conflicting guidance as to whether the consumer summary should be brief or comprehensive. The law mandates a ''summary of all the rights the consumer has under'' the FCRA (Section 609(c)(1)(A)).

The law also requires ''a brief description of * * * all rights of consumers'' provided by that law (Section 609(c)(2)(A)). Arguably, no document that is actually a ''summary''—or that constitutes a ''brief description'' of FCRA consumer rights—could literally include ''all'' consumer rights.

The Commission specifically asked for suggestions as to areas in which the proposed form was too long to be effective as a summary, or, conversely, had omitted something important to consumers. 62 FR 9123, 9124 (1997). The Commission has deleted three items from the proposed form that were persuasively cited by commenters as unnecessary or not helpful to the goal of educating consumers about their FCRA rights:

- The sentence noting that a CRA is not required to include a ''risk score'' or ''credit score'' in disclosures to consumers of their credit histories. The Commission included the sentence in the proposed summary to try to answer a question that consumers would otherwise ask of CRAs. Upon review of the diverse comments,[2] the Commission now believes that the reference would be more hindrance than help, and accordingly has deleted it.
- A discussion of FCRA litigants' ability to obtain attorney's fees from one another. The comments made it clear that the topic cannot be covered both briefly and precisely because of the complexity of this portion of the amended FCRA.[3] For that reason, and because the issue is ancillary to the consumer's right to sue for damages that continues to be emphasized in this portion of the summary, the Commission decided not to retain the discussion of attorney's fees.
- The reference to a toll-free number in the case of nationwide CRAs. National CRAs are required to include this number in their file disclosures; however (as noted by one such CRA), it need not be part of the summary.[4]

[1] 15 U.S.C. Sections 1681–1681u; Title VI of the Consumer Credit Protection Act.

[2] This sentence in the second bullet (''You can find out what is in your file'') was based on a clause specifically added to Section 609(a)(1). One comment from major creditors stated that the reference should be expanded to refer to ''any information concerning'' such scores ''or other predictors.'' A more frequent view, offered by a major CRA, a trade association, and a federal regulatory agency stated that the section was unnecessary and would confuse rather than educate consumers.

[3] This sentence, which appeared in the last bullet (''You may seek damages from violators''), was an effort to synthesize the various applicable provisions of Sections 616–17, as amended. The Commission's decision to delete this reference follows the recommendation of two commenters from disparate points of view—a nationwide credit bureau and a nationwide consumer advocacy organization. Other comments suggested expanding it further to make it more precise.

[4] This appeared in the proposed notice after the tenth and last bullet, before the list of federal agencies.

Conversely, other commenters noted that the summary needed more discussion of the rights of consumers who dispute file data with CRAs. These rights, which are central to the FCRA and provide important protections for consumers, are found in Section 611.[5] Accordingly, the Commission has added a discussion of (1) the right provided consumers by Section 611(b) to add a brief statement to their files when they continue to dispute information that the CRA has investigated and concluded to be accurate, and (2) the right of consumers under Section 611(d) to have revised reports provided to all recent recipients of information from their files.[6]

2. Editorial Revisions

The Commission's most significant editorial revisions to the summary are two adjustments in the opening paragraph to avoid misleading consumers about the range of parties covered by the FCRA, and to emphasize consumer rights under state law. In the first case, a major credit bureau asserted that the proposed summary focused on CRAs to a degree that is unwarranted in view of the fact that the amended FCRA also imposes substantial duties on users and furnishers of CRA data. The Commission therefore revised the text to eliminate the unnecessary reference to FCRA rights ''in dealing with CRAs (which must) provide you with a summary of these rights as listed below'' [7] that preceded the body of the summary. In the second case, state regulatory authorities asserted that the discussion of state law, which is specifically required by Section 609(c)(2)(D), should be featured more prominently. Accordingly, the Commission increased the emphasis by moving the reference to the opening paragraph. The Commission did not intend the proposed notice to single out CRAs, or to give short shrift to state law; these two revisions to the opening paragraph of the prescribed summary should make that clear.

The Commission also adopted some suggestions for stylistic or technical changes where the Commission believed the change would make the summary appreciably more precise or useful for consumers. For example, in the second sentence of the introductory paragraph, the Commission added an example of consumer report users (landlords) that a state regulator recommended as useful and deleted a type of CRA information (where consumers work and live) that industry representatives cited as a poor example for a summary. Also, the Commission revised a sentence, formerly in the fourth (now in the third bullet, to make it clear that national CRAs are not required to report erroneous information to one another; rather, furnishers must report to them any disputed data that they find to be inaccurate or incomplete, a task made easier by an automated system to be created by national CRAs.

The Commission also made some minor changes to improve the technical legal accuracy of the summary. The heading to the fourth bullet was expanded (''Inaccurate information must be *corrected or* deleted'') to describe precisely a CRA's options when its investigation shows that disputed information is not accurate.[8] Similarly, the statement of consumer's right to sue violators has been amended to state that furnishers can be sued only ''in some cases'' because the amended FCRA limits the situations in which consumers are authorized to sue directly for damages.[9]

B. Principal Public Comments Not Adopted

Commenters made suggestions for stylistic revisions of the consumer summary, many of which were adopted because they improved the clarity or comprehensibility of the summary. However, the Commission could not make all of these changes without unduly lengthening the document.

Because of the large volume of suggested wording and other changes contained in more than 170 pages of comments received by the Commission, it is not feasible to discuss them all in this notice. This section is intended to identify some of the more significant comments that are not reflected in the finally-prescribed consumer summary.

1. Form of the Summary

The principal credit bureau trade association expressed the view that the Commission specifications for the form of the summary were unduly ''rigid'' in two ways. *First*, the Commission proposed that the summary be on paper no smaller that 8½ × 11 inches in size. The commenter noted that continuous feed forms are not always perforated as 8½ × 11-inch sheets, and that the requirement that the summary be ''on paper'' would inhibit the possibility of electronic disclosures. *Second*, the Commission proposed that the notice be in 12-point type (8-point for the table at the end). The commenter stated that type sizes may vary based on the font being used.

Section 609(c)(3) of the amended FCRA specifically states that the ''Commission *shall* prescribe the *form and* substance of'' the summary (emphasis added). The Commission is required by law to prescribe a format that ensures that consumers will receive a summary that is readable and useful, and believes that the format prescribed in the proposed is appropriate for that purpose. However, the Commission does not intend to impose an absolutely ''rigid'' standard, which would be inappropriate under the statute. Section 609(a)(3) requires only that a summary be ''substantially similar'' (*i.e.*, not identical) to the Commission-prescribed version. Therefore, a format that approximates that published by the Commission as ''Appendix A'' (which meets the type size requirements and can be printed, with comfortable margins, on two 8½ x 11-inch pages) will comply, even if the print is technically not 12-point in size because of a different font, or it is provided on computer paper that is slightly smaller is size. Similarly, an electronic submission that normally allows the recipient to receive it in a format similar to the prescribed version will also comply.[10] Such summaries will not result in the consumer receiving a form that is harder to read or use than the exact prescribed version.[11]

[5] Because of space limitations, the proposed notice focused on the rights provided for the first time by the amended section 611(a): the 30-day period for CRA investigations; the CRA obligation to consider (and pass on to the furnisher of the item) ''all relevant information'' submitted by the consumer when a dispute occurs; the consumer's right to a written statement of results of an investigation; and limits on the ability of CRAs to re-inserts an item of information deleted pursuant to a consumer dispute.

[6] These items are now included in the third bullet of the prescribed notice (''You can dispute inaccurate information with the CRA''). The sentence dealing with limits on CRA ability to re-insert information after it had been deleted, previously located there, now appears in the fourth bullet (''Inaccurate information must be corrected or deleted'').

[7] Partially in response to the same comment, the Commission also revised the tenth and last bullet to refer to the liability of users and furnishers (as well as CRAs) in civil actions.

[8] Both industry and consumer representatives asserted that the summary should clearly inform consumers that a CRA may cure an inaccuracy with respect to a disputed item of information by either deleting the information *or* amending it to make it accurate.

[9] Section 623(c) of the amended FCRA specifically bars consumers from bringing suit against furnishers of information for violation of the accuracy and reporting duties imposed by Section 623(a), allowing only regulatory authorities to enforce those provisions.

[10] Section 610(a)(12 provides that file disclosures are normally to be made in writing. However, Section 610(b)(2) allows the consumer to specify disclosure by other means, including electronic means if available from the CRA.

[11] In some cases, a CRA may use an entirely different format to respond to a consumer request

Continued

2. Items Required by Section 609(c)(2)

The Commission received a number of comments relating to each of three sections the amended FCRA requires be included in the summary: (1) A reference to rights provided by state law, (2) a statement that the CRAs are not required to delete accurate data that is not obsolete under Section 605, and (3) a list of federal agencies that have authority to enforce the FCRA. The Commission made few additions or deletions in these areas, because Congress has given precise instructions. This section describes the nature of those comments and the basis for the Commission's decision in most cases not to change the proposed form.

State regulators suggested a substantial expansion of the reference to state law required by Section 609(c) (2) (D), including multiple references to state and local authorities, and more detailed instructions on how to reach them. As noted above (¶I–A–2), the Commission has decided to feature the statutorily-required section more prominently in the summary. However, the Commission does not believe the section should be expanded because it currently uses the language prescribed by Congress.

Several commenters offered revisions of the sentences, required by Section 609(c)(2)(E), reminding consumers in bold letters that they cannot require CRAs to remove information that is accurate and not outdated. The Commission adopted a suggestion by a CFR trade association to add a parenthetical cross-reference to clarify that ''outdated'' means the FCRA's seven year period (ten for bankruptcies), a change that made the bold statement more precise. It did not adopt suggestions for change that were not specifically authorized by the statute.[12]

Similarly, the Commission did not adopt suggestions by commenters to reduce the list of federal agencies with regulatory authority. Section 609(c) (2) (C) requires that the summary include ''a list of all federal agencies responsible for enforcing [the FCRA] and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency.'' Suggestions for pruning this section involved using a narrative to replace the required ''list,'' reducing the list from ''all'' agencies by eliminating those deemed to be of low interest to consumers, and other revisions that would delete or reduce the jurisdictional summaries designed to ''assist the consumer in selecting the appropriate agency.'' The comments appeared well-intended, but the Commission concluded that the summary should reflect the specific instructions of Congress on this point.

3. Use of ''CRA'' as an Acronym

A number of commenters from different sectors asserted that ''CRA'' is an awkward acronym for ''consumer reporting agency; most of them suggested that ''credit bureau'' would be more easily understood. Some opined that ''CRA'' is too easily confused with a common acronym for the Community Reinvestment Act.

The term ''credit bureau'' is certainly known to more consumers than ''CRA,'' but it has major drawbacks that the Commission believes make its use inappropriate here. The FCRA unquestionably applies to *all* consumer reporting agencies, a universe that includes more than credit bureaus (*e.g.*, specialized CRAs that report only on mortgage or tenant applications, or only on consumers' check writing habits). It thus would be legally inaccurate to use ''credit bureau'' as a replacement. In addition, it would make the summary confusing to a consumer who receives it from a CRA that is not a credit bureau. While some commenters who are knowledgeable about financial laws may be accustomed to 'CRA'' as an acronym for the Community Reinvestment Act, only a small fraction of consumers who get this summary may make such a connection.[13]

II. Notices to Furnishers and Users

The furnisher and user notices occasioned relatively few comments, and thus are little changed from the proposed versions. The Commission, responding to a suggestion by state regulators, added a sentence to each notice referring to the possible applicability of state law. With the exception of a few subjects discussed in the following sections on each of these notices, the only changes were revisions that were very slight adjustments that the Commission believes, based on the comments, would make the notice more clearly reflect the FCRA and be of assistance to the recipients.

The Commission specifically asked whether the public wanted guidance as to the timing and frequency of notice distribution, in view of the amended FCRA's silence on the point. 62 FR 9123, 9125, (1997). The overwhelming majority of the commenters did not address the issue, and those who commented gave very different views—a comment from state regulators advocated requiring frequent notices, two furnishers/users asked for a ruling limiting or not requiring multiple notices, and a CRA trade association urged that the marketplace be allowed to work its will in light of the FCRA silence. Based on the limited number of (and wide disagreement among) commenters, formal guidance on these issues at this early stage seems unwise. If experience after the amendments become effective indicates a need for such action, the Commission can revisit the issue.

A. Furnisher Notice

The one significant change in the furnisher notice is the addition of a reference to the fact that two of the sections apply only to parties that furnish information to CRAs regularly and in the ordinary course of their business.[14] The Commission specifically asked for public comment on this issue. 62 FR 9123, 9125 (1997). There was a consensus among the commenters that the notice should be revised to include reference to the different standards that apply to occasional user.

Representatives of different furnishers suggested two additions that the Commission did not adopt. *First,* credit card issuers advocated adding a section spelling out the limitations on consumers' ability to sue furnishers, a topic that seemed inappropriate for a Commission-prescribed notice of duties to furnishers. *Second,* debt collectors and creditors urged that the notice specify that a furnisher's duty to report an item as ''disputed'' lasts only while it is investigating the dispute. This point involves an issue of statutory interpretation that is more appropriately resolved in another forum.

Finally, the Commission asked for comments on whether the prescribed

under Section 610(b)(2), or to accommodate visually (or otherwise) impaired consumers pursuant to relevant federal or local laws.

[12] One CRA accurately pointed out that it is not technically correct to imply that a CRA must ''remove'' outdated accurate information from its files, because such data may be retained to be reported in situations listed in Section 605(b) where the obsolescence provisions do not apply. However, it is common practice for credit bureaus to delete information from their files before the time periods set forth in Section 605; thus, it makes sense that Section 609(c) (2) (E) should direct that a *summary,* as opposed to a legal brief, include a statement concerning limits on the CRA's duty to ''remove'' outdated data.

[13] Of course, a credit bureau may elect to replace ''CRA'' with ''agency'' or some other appropriate term in the notice it provides to any party, because it would be ''substantially similar'' to the Commission's form under Section 609(c) (3).

[14] Sections 623 (a)(2) and (a)(4) provide that the obligations described in the notice as ''Duty to Correct and Update Information'' and ''Duty to Report Voluntary Closing of Credits Accounts'' apply only to such parties.

form should include the text of Section 623. 62 FR 9123, 9125 (1997). The Commission has not included the text, because the commenters generally stated that it was unnecessary. However, a CRA form that does so will be ''substantially similar'' and thus in compliance with Section 609(c).

B. User Notice

The Commission asked for comment as to whether it should prescribe separate notices for different types of specialized users (62 FR 9125). The overwhelming majority of the commenters stated that a single notice (as the Commission proposed) was best.

One commenter representing specialized reporting services, while agreeing that a single notice is appropriate for most CRAs, stated that its members' business activities are so focused that the information provided to their clients would never relate to some of the points in the comprehensive notice. As an example, the commenter asserted that the portions of the proposed notice concerning employment reports (section II of the Notice), investigative reports (section III), medical information (section IV) or precreened lists (section V) might not be pertinent to purposes of any clients of a mortgage reporting company. Similarly, it noted that a different set of sections might not be relevant to the purposes of any customers of a CRA that provides reports only for employment or tenant screening uses. The Commission agrees that a CRA may delete sections of the notice that are irrelevant to the business purposes for which any user is contractually authorized to purchase consumer reports for the CRA, in the same fashion that a creditor may omit inapplicable sections of prescribed forms under other statutes.[15]

The only significant addition to the user notice is in Section I–B of the notice, concerning the certification of permissible purpose that users must provide to CRAs that sell consumer reports to them. Several parties advocated that the Commission expand this Section to account for the possibility of a general certification, as permitted by Section 604(f). The Commission has done so, but added the words ''as appropriate'' to make it clear that some consumer report users whose activities involve both permissible and impermissible purposes,[16] or who have given the CRA reason to believe they have violated a general certification, must be required to provide individual certifications for each consumer report.

III. Impact on Small Businesses

In publishing the proposed notices, the Commission stated that the notices would not have a significant economic impact on a substantial number of small entities. The Commission explained that it is prescribing that notices at the direction of Congress, so that any economic costs imposed on small entities by the required dissemination of the notices are in fact imposed by statute. The Commission noted further that its publication of forms for the proposed notices could be said to lessen the burden on small businesses, since the entities can—but need not—adopt the Commission's forms, and thereby avoid the risk and expense of developing their notices independently. The Commission nevertheless requested comments in order to ensure that it did not overlook any substantial economic impact on small businesses.

The Commission received four comments addressing the question of the notices' economic impact on small businesses. Two commenters agreed that the Commission's publication of the notices would not have a significant economic impact on a substantial number of small businesses. One commenter disagreed, but provided data supporting the conclusion that the statutory requirement would create a significant economic impact, rather than any evidence that the Commission's publication of the model forms for the notices would do so. Finally, one commenter stated that small businesses would be significantly burdened if the Commission were to require repeated distribution of the notices. As stated in the second paragraph of Section II above, the Commission has determined not to impose any requirements concerning the timing and frequency of dissemination of the notices at this time. Accordingly, the Commission has determined that public comments and information before the Commission do not alter the conclusion that its pbulicaiton in final form of the models for the prescribed notices will not have a significant economic impact on a substantial number of small entities.

IV. Paperwork Reduction Act

In its initial review of the proposed notices, the Commission considered whether it was ''sponsoring or conducting'' any ''collection[s] of information'' that would trigger the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35. In this regard, the Commission observed that the notices contain only statutorily imposed investigation disclosure, and recordkeeping requirements; the FTC introduces no additional elements. Further, two of the notices will become effective on September 30, 1997, regardless of whether the FTC has provided the language for these forms by that time. In this situation, the Commission does not ''require'' or ''cause'' the disclosures to occur.

The Commission also observed that the three notices contain all the information that subject firms will be required to disclose to third parties. The reporting agencies can simply adopt these notices for distribution without any change to the language. Therefore, the three notices fall within an exception to the definition of a ''collection of information'' as being ''[t]he public disclosure of information originally suppled by the Federal government to the recipient for the purpose of disclosure to the public.'') 5 CFR 1320.3(c)(2). Accordingly, none of the three require approval by OMB. Nonetheless, the Commission requested public comment on this matter. No comments were received.

List of Subjects in 16 CFR Part 601

Credit, Trade practices.

Pursuant to 15 U.S.C. 1681g and 1681s, the FTC hereby adds to Subchapter F of Chapter I of 16 CFR a new Part 601 to read as follows:

PART 601—SUMMARY OF CONSUMER RIGHTS, NOTICE OF USER RESPONSIBILITIES, AND NOTICE OF FURNISHER RESPONSIBILITIES UNDER THE FAIR CREDIT REPORTING ACT

Sec.
601.1 Authority and purpose.
601.2 Legal effect.
Appendix A to Part 601—Prescribed Summary of Consumer Rights
Appendix B to Part 601—Prescribed Notice of Furnisher Responsibilities
Appendix C to Part 601—Prescribed Notice of User Responsibilities

Authority: 15 U.S.C. 1681g and 1681s.

[15] Creditors are required to notify consumers of their rights under the Fair Credit Billing Act, Regulation Z § 226.6(d), 12 CFR 226.6(d). The Federal Reserve Board has prescribed forms for that purpose. Regulation Z, Appendix G, Forms G–3 and G–4. However, creditors that do not issue credit cards may omit a section in the form on the rights of cardholders, and creditors that are not able to debit a savings or checking account for payment may omit a section about the consumer's right to stop such debits. Official Staff Commentary for Regulation Z, Appendix G–3, 12 CFR part 226, Supp. I.

[16] Certain businesses typically have both permissible and impermissible purposes—*e.g.*, an attorney could obtain a consumer report to decide whether to hire a job applicant or to extend credit to a client, but not to decide whether to name a person as a defendant in a tort action.

§ 601.1 Authority and purpose.

(a) *Authority.* This part is issued by the Commission pursuant to the provisions of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as most recently amended by the Consumer Credit Reporting Reform Act of 1996 (Title II, Subtitle D, Chapter 1, of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997), Public Law 104–208, 110 Stat. 3009–426 (Sept. 30, 1996).

(b) *Purpose.* The purpose of this part is to comply with sections 607(c) and 609(c) of the Fair Credit Reporting Act, as amended. Section 609(c)(3) directs the FTC to prescribe the form and content of a summary of consumers' legal rights under the FCRA that the amended law requires each consumer reporting agency to provide when disclosing the information in its file to consumers, and section 609(c)(4) provides that the summary need not be provided until the FTC has in fact prescribed its form and content. Section 607(d)(2) directs the FTC to prescribe the content of notices that consumer reporting agencies are required to provide to parties that supply information to, or purchase consumer reports from, the agency. These notices will set forth the responsibilities under the FCRA of all persons who furnish information to consumer reporting agencies or use information subject to the FCRA.

§ 601.2 Legal effect.

The forms prescribed by the FTC do not constitute a trade regulation rule. They carry out the directive in the statute that the FTC prescribe the summary and notices. A consumer reporting agency that provides notices substantially similar to those prescribed by the FTC will be in compliance with Section 607(d) or 609(c) of the FCRA, as applicable.

Appendix A to Part 601—Prescribed Summary of Consumer Rights

The prescribed form for this summary is as a separate document, on paper no smaller than 8½ x 11 inches in size, with text no less than 12-point type (8-point for the chart of federal agencies), in bold or capital letters as indicated. The form in this appendix prescribes both the content and the sequence of items in the required summary. A summary may accurately reflect changes in numerical items that change over time (e.g., dollar amounts, or phone numbers and addresses of federal agencies), and remain in compliance.

BILLING CODE 6750–01–M

A Summary of Your Rights Under the Fair Credit Reporting Act

The federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). Most CRAs are credit bureaus that gather and sell information about you -- such as if you pay your bills on time or have filed bankruptcy -- to creditors, employers, landlords, and other businesses. You can find the complete text of the FCRA, 15 U.S.C. §§1681-1681u, at the Federal Trade Commission's web site (*http://www.ftc.gov*). The FCRA gives you specific rights, as outlined below. You may have additional rights under state law. You may contact a state or local consumer protection agency or a state attorney general to learn those rights.

- **You must be told if information in your file has been used against you.** Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.

- **You can find out what is in your file.** At your request, a CRA must give you the information in your file, and a list of everyone who has requested it recently. There is no charge for the report if a person has taken action against you because of information supplied by the CRA, if you request the report within 60 days of receiving notice of the action. You also are entitled to one free report every twelve months upon request if you certify that (1) you are unemployed and plan to seek employment within 60 days, (2) you are on welfare, or (3) your report is inaccurate due to fraud. Otherwise, a CRA may charge you up to eight dollars.

- **You can dispute inaccurate information with the CRA.** If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit, unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.

- **Inaccurate information must be corrected or deleted.** A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. **However, the CRA is not required to remove accurate data from your file unless it is outdated (as described below) or cannot be verified.** If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.

- **You can dispute inaccurate items with the source of the information.** If you tell anyone -- such as a creditor who reports to a CRA -- that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.

- **Outdated information may not be reported.** In most cases, a CRA may not report negative information that is more than seven years old; ten years for bankruptcies.

- **Access to your file is limited.** A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.

- **Your consent is required for reports that are provided to employers, or reports that contain medical information.** A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.

- **You may choose to exclude your name from CRA lists for unsolicited credit and insurance offers.** Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years. If you request, complete, and return the CRA form provided for this purpose, you must be taken off the lists indefinitely.

- **You may seek damages from violators.** If a CRA, a user or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA:

FOR QUESTIONS OR CONCERNS REGARDING:	PLEASE CONTACT:
CRAs, creditors and others not listed below	Federal Trade Commission Consumer Response Center - FCRA Washington, DC 20580 * 202-326-3761
National banks, federal branches/agencies of foreign banks (word "National" or initials "N.A." appear in or after bank's name)	Office of the Comptroller of the Currency Compliance Management, Mail Stop 6-6 Washington, DC 20219 * 800-613-6743
Federal Reserve System member banks (except national banks, and federal branches/agencies of foreign banks)	Federal Reserve Board Division of Consumer & Community Affairs Washington, DC 20551 * 202-452-3693
Savings associations and federally chartered savings banks (word "Federal" or initials "F.S.B." appear in federal institution's name)	Office of Thrift Supervision Consumer Programs Washington, DC 20552 * 800-842-6929
Federal credit unions (words "Federal Credit Union" appear in institution's name)	National Credit Union Administration 1775 Duke Street Alexandria, VA 22314 * 703-518-6360
State-chartered banks that are not members of the Federal Reserve System	Federal Deposit Insurance Corporation Division of Compliance & Consumer Affairs Washington, DC 20429 * 800-934-FDIC
Air, surface, or rail common carriers regulated by former Civil Aeronautics Board or Interstate Commerce Commission	Department of Transportation Office of Financial Management Washington, DC 20590 * 202-366-1306
Activities subject to the Packers and Stockyards Act, 1921	Department of Agriculture Office of Deputy Administrator - GIPSA Washington, DC 20250 * 202-720-7051

Appendix B to Part 601 - Prescribed Notice of Furnisher Responsibilities

This appendix prescribes the content of the required notice.

NOTICES TO FURNISHERS OF INFORMATION: OBLIGATIONS OF FURNISHERS UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA), as amended, imposes responsibilities on all persons who furnish information to consumer reporting agencies (CRAs). These responsibilities are found in Section 623 of the FCRA. State law may impose additional requirements. All furnishers of information to CRAs should become familiar with the law and may want to consult with their counsel to ensure that they are in compliance. The FCRA, 15 U.S.C. §§1681-1681u, is set forth in full at the Federal Trade Commission's Internet web site (*http://www.ftc.gov*). Section 623 imposes the following duties:

General Prohibition on Reporting Inaccurate Information:

The FCRA prohibits information furnishers from providing information to a consumer reporting agency (CRA) that they know (or consciously avoid knowing) 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 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 by 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)*

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 the consumer. *Sections 623(b)(1)(A) and (b)(1)(B)*

• Report the results to the CRA, 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 compile and maintain files on a nationwide basis. *Sections 623(b)(1)(C) and (b)(1)(D)*

• Complete the above 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)*

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 furnishes 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)*

Appendix C to Part 601 - Prescribed Notice of User Responsibilities

This appendix prescribes the content of the required notice.

NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA

The federal Fair Credit Reporting Act (FCRA) requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. This 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. The FCRA, 15 U.S.C. §§1681-1681u, is set forth in full at the Federal Trade Commission's Internet web site (*http://www.ftc.gov*).

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 of the FCRA 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 decisions, where the consumer has given written permission. *Sections 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 unsolicited offers of credit or insurance. The particular obligations of users of this "prescreened" information are described in Section V below.

B. Users Must Provide Certifications

Section 604(f) of the FCRA prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA (by a general or specific certification, as appropriate) 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 of the FCRA. "Adverse actions" include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact -- such as unfavorably changing credit or contract terms or conditions, denying or canceling credit or insurance, offering credit on less favorable terms than requested, or denying employment or promotion.

1. Adverse Actions Based on Information Obtained From a CRA

If a user takes any type of adverse action that is based at least in part on information contained in a consumer report, the user is required by Section 615(a) of the FCRA 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 requests the report 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) of the FCRA requires that the user clearly and accurately disclose to the consumer his or her right to obtain disclosure of the nature of the information that was relied upon by making 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 notification 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. (Information that is obtained directly from an affiliated entity relating solely to its transactions or experiences with the consumer, and information from a consumer report obtained from an affiliate are not covered by Section 615(b)(2).)

II. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOR EMPLOYMENT PURPOSES

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 prior written authorization from the consumer.

• 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, provide a copy of the report to the consumer as well as the summary of the consumer's rights. (The user should receive this summary from the CRA, because Section 604(b)(1)(B) of the FCRA requires CRAs to provide a copy of the summary with each consumer report obtained for employment purposes.)

III. OBLIGATIONS OF USERS OF INVESTIGATIVE CONSUMER REPORTS

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. 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 of the FCRA 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 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 must include the summary of consumer rights required by Section 609 of the FCRA. (The user should be able to obtain a copy of the notice of consumer rights from the CRA that provided the consumer report.)

• 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 that was requested. 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.

IV. OBLIGATIONS OF USERS OF CONSUMER REPORTS CONTAINING MEDICAL INFORMATION

Section 604(g) of the FCRA prohibits consumer reporting agencies from providing consumer reports that contain medical information for employment purposes, or in connection with credit or insurance transactions, without the specific prior consent of the consumer who is the subject of the report. In the case of medical information being sought for employment purposes, the consumer must explicitly consent to the release of the medical information in addition to authorizing the obtaining of a consumer report generally.

V. 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 circumstances. *Sections 603(l), 604(c), 604(e), and 615(d)* This practice is known as "prescreening" and typically involves obtaining a list of consumers from a CRA who meet certain preestablished criteria. If any person intends to use prescreened lists, 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 or 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. This statement must include the address and toll-free telephone number of the appropriate notification system.

VI. OBLIGATIONS OF RESELLERS

Section 607(e) of the FCRA 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.

VII. LIABILITY FOR VIOLATIONS OF THE FCRA

Failure to comply with the FCRA can result in state or federal 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*

By direction of the Commission.

Donald S. Clark,

Secretary.

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