

The Fair and Accurate Credit Transactions Act of 2003 **Selected Provisions**

On December 4, 2003, President George W. Bush signed into law the Fair and Accurate Credit Transactions Act of 2003 or “FACT Act.” The FACT Act amends the Fair Credit Reporting Act (FCRA), and provides consumers with new tools to help fight identity theft and enhance the accuracy, security, and reliability of their financial information. Selected provisions of the FACT Act are described below.

Title I – Identity Theft Prevention and Credit History Restoration

Free credit reports. *Sec. 112* permits a consumer to obtain a free credit report after the consumer requests a nationwide credit bureau to place a fraud alert in the consumer’s credit file. (Free reports continue to be available under specific circumstances outlined in existing provisions of the FCRA.) *Section 211*, described under Title II below, also permits a consumer to obtain at least one free credit report over any 12-month period, regardless of whether fraud is suspected.

One Call Fraud Alerts. *Sec. 112* establishes a national fraud alert system allowing a consumer to request the three nationwide credit bureaus to place a fraud alert in the consumer’s credit file. A consumer only has to make one phone call to one of the three nationwide credit bureaus to place a fraud alert with all three credit bureaus. The effect of the fraud alert will be to require lenders, who obtain credit reports from one of the three credit bureaus, to take additional steps to verify the identity of the consumer before making a loan or extending credit. An initial fraud alert lasts 90 days and entitles the consumer to request a free credit report. After filing an identity theft report with any law enforcement agency, a consumer can place an extended alert for up to seven years, and may request two additional free credit reports over a 12 month period to help the consumer monitor his or her credit history.

Military personnel on active duty away from their usual post can also place a preventive Active Duty alert on their files for a year and be removed from pre-screened lists for two years.

Truncating credit and debit card account numbers. *Sec. 113* generally requires businesses that print debit and credit card receipts to use equipment that imprints no more than the last five digits of a customer’s card number.

Red Flags for Financial Institutions. *Sec. 114* requires federal regulators to establish red flag guidelines for financial institutions to use to detect identity theft in customer accounts.

Truncation Social Security numbers. *Sec. 115* requires credit bureaus to print only the last four digits of a consumer’s Social Security number on the consumer’s credit report if asked to do so by a consumer who requests a copy of his or her credit report.

Victims Rights. *Sec. 151* ensures that victims know their rights regarding the identity theft provisions of the FCRA, and can collect proof of the identity theft from businesses that dealt with the thieves. *Sec. 151* also requires the Federal Trade Commission (FTC) to implement a campaign to teach the public how to prevent identity theft.

Blocking Information Resulting from Identity Theft. *Sec. 152* requires credit bureaus to stop reporting any information that a consumer has satisfactorily identified as resulting from identity theft, and to notify the furnisher of the information about the block.

Coordinating Identity Theft Complaint Investigations. *Sec. 153* requires each of the three nationwide credit bureaus to develop and maintain coordinated procedures for referring consumer complaints of identity theft and fraud alert and fraud block complaints to each other. The FTC is required to develop a model form and procedures for consumers to contact and inform creditors and credit bureaus about identity thefts.

Prevention of Repollution of Consumer Reports. *Sec. 154* prohibits lenders and other furnishers of information to credit bureaus from furnishing information to credit bureaus after they have learned that the information to be furnished stems from identity theft. Anyone who has been notified of a block on information relating to identity theft may not sell or seek collection on the debt.

Notice by Debt Collectors. *Sec. 155* requires a debt collector, who learns that the debt that it seeks to collect may be fraudulent or the result of identity theft, to notify the creditor that the debt may be fraudulent or the result of identity theft.

Title II: Improvements in Use of and Consumer Access to Credit Information

Free Consumer Reports. *Sec. 211* permits a consumer to receive at least one free copy of the consumer's credit report annually from each of the three nationwide credit bureaus whether fraud is suspected or not. The FTC must prepare a model summary of the rights of consumers under FCRA, including their rights to obtain free copies of credit reports under all of the circumstances permitted and to dispute information contained in their credit reports.

Disclosure of Credit Scores. *Sec. 212* permits a consumer to obtain for a reasonable fee from a credit bureau that develops or distributes credit scores the consumer's credit score and related information. If a consumer requests a copy of his credit report but not the score, the credit bureau must disclose the right to obtain the score.

Enhanced Disclosure of Means for Opting Out of Prescreened Lists. *Sec. 213* requires the FTC to simplify existing notices of how consumers can remove their names from lists that are compiled for financial institutions to make unsolicited credit card and insurance offers. This section expands a two-year opt out period to five years. The FTC is required to actively publicize and conspicuously post on its website the address and toll-free

telephone number that consumers can use to opt out from receiving unsolicited credit card and insurance offers.

Requirement to Disclose Communications to a Consumer Reporting Agency. *Sec. 217* requires financial institutions that regularly furnish information to any of the three nationwide credit bureaus to notify a consumer when they furnish negative information regarding credit provided to such consumer such as a late payments.

Affiliate Sharing. *Sec. 214* generally prohibits anyone that receives information from an affiliate about a consumer from soliciting the consumer for marketing purposes unless the consumer has been informed that the information may be transferred for marketing purposes and has been offered a simple method for opting out of receiving such marketing solicitations for at least five years.

Disposal of Records. *Sec. 216* generally requires federal financial regulators and the FTC to promulgate regulations requiring any person that maintains or possesses credit reports or information derived from credit reports to dispose of the information properly.

Title III – Enhancing the Accuracy of Consumer Report Information

Risk-Based Pricing Notice. *Section 311* requires anyone who extends credit based in whole or part on the use of a credit report to notify the borrower if the terms of the credit are materially less favorable than the most favorable terms offered to a substantial proportion of consumers. This notice is in addition to “adverse action” notices already required under the FCRA when credit is denied.

Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies. *Sec. 312* generally requires furnishers to have policies and procedures for ensuring the accuracy of the information they send to credit bureaus, and enables consumers to dispute directly with the furnishers the accuracy of information sent to credit bureaus, instead of starting with the credit bureau.

FTC and Consumer Reporting Agency Action Concerning Complaints. *Section 313* requires the FTC to compile all complaints from consumers about incomplete or inaccurate information in their files held by any of the three nationwide credit bureaus, and transmit such complaints to the applicable credit bureau. The credit bureaus must review the complaints, report on their resolution to the FTC, and maintain records for a reasonable time. The FTC must submit annual reports to Congress.

Improved Disclosure of the Results of Reinvestigation. *Sec. 314* generally requires credit bureaus to delete or modify inaccurate information and to notify the furnisher of the information of credit bureau actions. Furnishers who find incomplete or inaccurate information following a reinvestigation must modify, delete, or block the reporting of such incomplete or inaccurate information.

Reconciling Addresses. *Sec. 315* requires that if someone requests a consumer's credit report using an address that differs from the address the credit bureau has on file for the consumer, the credit bureau must notify the requester of the discrepancy. Federal regulators will prescribe regulations regarding reasonable policies and procedures for users of credit reports to follow in such cases. The policies and procedures require the requestor of the credit report upon learning of the discrepancy to take reasonable steps to confirm the identity of the consumer and to determine that the matter does not involve identity theft.

Notice of Dispute through Reseller. *Sec. 316* requires credit bureaus to reinvestigate consumer disputes forwarded to them by resellers of credit reports. Resellers have a new duty to determine whether a consumer complaint about the integrity or accuracy of information is valid and correct the error if it is due to the reseller or forward the complaint to the credit bureau that is the source of problem.

Title IV – Limiting the Use and Sharing of Medical Information in the Financial System

Protection of Medical Information in the Financial System. *Sec. 411* generally prevents credit bureaus from furnishing credit reports containing medical information about a consumer unless either the consumer consents or the medical information is encoded such that one cannot infer the provider or the nature of the medical services. Section 411 generally prevents a creditor from obtaining or using medical information to determine a consumer's eligibility for credit, except as authorized by federal law. Anyone who receives medical information generally cannot redisclose the information to another person except as necessary to carry out the purpose for which such information was received or as otherwise permitted by law.

Confidentiality of Medical Contact Information in Consumer Reports. *Sec. 412* requires a furnisher of information to credit bureaus that are principally in the business of providing medical services, products, or devices to notify the credit bureaus that it is such a provider. A credit bureau may not include the furnisher's name, address, or telephone number in a credit report unless the identifying data is encoded or is provided to an insurance company for insurance purposes other than property and casualty insurance.