

Farm Credit Administration

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INFORMATIONAL MEMORANDUM



October 7, 2011

To: Chief Executive Officer
All Farm Credit System Institutions

From: Samuel R. Coleman, Director and Chief Examiner
Office of Examination

A handwritten signature in black ink that reads 'Samuel R. Coleman'.

Subject: Amendments to Regulations Implementing the RESPA, the FACT Act, and the ECOA

The purpose of this Informational Memorandum (IM) is to provide information about amendments to regulations implementing the Real Estate Settlement Procedures Act (RESPA), the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), and the Equal Credit Opportunity Act (ECOA), all of which apply to Farm Credit System institutions in certain credit transactions.

Amendments to RESPA Regulations

On July 11, 2011, the Department of Housing and Urban Development (HUD) published a final rule correcting and clarifying a final rule that it published on November 17, 2008. We informed you about this earlier final rule by IM dated January 29, 2009. A copy of this IM is attached. The new final rule, in pertinent part, corrects a definition; corrects and clarifies certain matters related to Good Faith Estimates and corrects and clarifies the instructions for completing HUD-1 Settlement Statements.

The final rule was published at 76 FR 40612 (July 11, 2011) and will be codified at 24 CFR Part 3500. It became effective on August 10, 2011. A copy of the final rule is attached.

Amendments to FACT Act Regulations

On July 15, 2011, the Federal Trade Commission (FTC) published a final rule amending its risk-based pricing rules implementing section 311 of the FACT Act, which amended the Fair Credit Reporting Act (FCRA). We informed you about the initial risk-based pricing rules, which this new final rule amends, by IM dated January 27, 2010. A copy of this IM is attached. The risk-based pricing rules generally require a creditor to provide a risk-based pricing notice to a consumer when the creditor uses a consumer report to grant or extend credit to the consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor.

The new amendments require disclosure of credit scores and information relating to credit scores in risk-based pricing notices if a credit score of the consumer is used in setting the material terms of credit. These amendments reflect the new requirements in section 615(h) of the FCRA that were added by section 1100F of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

The final rule was published at 76 FR 41602 (July 15, 2011) and will be codified at 16 CFR part 640. It became effective on August 15, 2011. A copy of the final rule is attached.

Amendments to ECOA Regulations (Regulation B)

On July 15, 2011, the Board of Governors of the Federal Reserve System (Federal Reserve) published a final rule amending Regulation B, which implements the ECOA. Section 701 of the ECOA requires a creditor to notify a credit applicant when it has taken adverse action against the applicant. The ECOA adverse action requirements are implemented in Regulation B. Section 615(a) of the FCRA also requires a person to provide a notice when the person takes an adverse action against a consumer based in whole or in part on information in a consumer report. Certain model notices in Regulation B include the content required by both the ECOA and the FCRA adverse action provisions, so that creditors can use the model notices to comply with the adverse action requirements of both statutes.

The final rule amended these model notices in Regulation B to include the disclosure of credit scores and related information if a credit score is used in taking adverse action. The revised model notices reflect the new content requirements in section 615(a) of the FCRA, as amended by section 1100F of the Dodd-Frank Act.

The final rule was published at 76 FR 41590 (July 15, 2011) and will be codified at 12 CFR part 202. It became effective on August 15, 2011. A copy of the final rule is attached.

If you have any questions about this Informational Memorandum, please contact Jennifer A. Cohn, Senior Counsel, Office of General Counsel, at (703) 883-4028, or by e-mail at cohnj@fca.gov; and/or David Stephens, Office of Examination, at (703) 883-4412, or by e-mail at stephensd@fca.gov.

Attachments