



Informational Memorandum

January 27, 2010

To: Chief Executive Officer
All Farm Credit System Institutions

From: Thomas G. McKenzie, Director and Chief Examiner
Office of Examination

Subject: FACT Act Regulations – Risk-Based Pricing Notices

A handwritten signature in black ink that reads 'Thomas G. McKenzie'.

On January 15, 2010, the Federal Trade Commission (FTC) published final rules to implement the risk-based pricing provisions in section 311 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), which amends the Fair Credit Reporting Act (FCRA). The FTC regulates and enforces the FACT Act with respect to System institutions. The purpose of this Informational Memorandum (IM) is to inform System institutions about the publication of these new rules.

This rule applies only to credit that is primarily for personal, household, or family purposes and does not apply to business credit. The rules generally require a creditor to provide consumers with a “risk-based pricing” notice when, based on their credit report, they receive credit on less favorable terms than other consumers. Consumers who receive this risk-based pricing notice will be able to obtain a free credit report to review for accuracy.

Risk-based pricing refers to the practice of setting or adjusting the price and other terms of credit provided to a particular consumer based on the consumer’s creditworthiness. The rules provide creditors with several methods for determining which consumers must receive risk-based pricing notices. As an alternative to providing risk-based pricing notices, creditors may provide consumers who apply for credit with a free credit score and information about that score.

The rules were published in the Federal Register at 75 FR 2724 and will be codified in the FTC’s FCRA regulations in 16 CFR part 640. They will be effective on January 1, 2011.

While FCA has no authority under the FACT Act, it may examine institutions for compliance under its general authority to protect the safety and soundness of FCS institutions. Because the FACT Act and regulations are complex and compliance obligations are fact-specific, you may wish to consult legal counsel to determine the responsibilities of your institution. You may also contact the FTC personnel listed in the rules with any questions.

If you have any questions about this 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.