

Farm Credit Administration

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Informational Memorandum



July 23, 2007

To: Chief Executive Officer
All Farm Credit System Institutions

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

A handwritten signature in black ink that reads 'Thomas G. McKenzie'. The signature is written in a cursive style with a long, sweeping underline.

Subject: Adverse Actions Based on Consumer Credit Reports

This Informational Memorandum is to remind Farm Credit System (FCS) institutions of the applicability of the Fair Credit Reporting Act (FCRA) and FCA Regulation 12 C.F.R. § 618.8320(b)(7) to consumer credit transactions. Consumer credit transactions are those primarily involving personal, family, or household credit needs; not agricultural or other business credit needs. Under section 615(a) of the FCRA, FCS institutions are required to disclose to applicants in a consumer credit transaction when an adverse action was based, either wholly or in part, on information in their consumer credit report. Under the Federal Reserve Board's Regulation B, at 12 C.F.R. § 202.2, adverse actions include both rejections of applications for credit and counteroffers of different amounts or terms than what was applied for (unless the applicant accepts the counteroffer).

The required disclosures must provide oral, written, or electronic notice to the consumer that includes the following information:

- Name, address, and the toll-free telephone number of the consumer reporting agency.
- A statement explaining that the credit reporting agency did not make the adverse decision so it cannot explain the reasons for the decision.
- A statement on the consumer's right to a free copy of the credit report (within 60 days) and right to dispute the accuracy of the credit report with the credit reporting agency.

It is common practice to rely on consumer credit reports when analyzing consumer credit applications and determining the creditworthiness of certain types of applications. Applications are often denied based entirely on negative credit history information, such as excessive delinquencies, bankruptcies, or foreclosures, disclosed in consumer credit reports. FCS institutions also use consumer credit reports to verify the obligations and monthly payments reported by applicants. The information is then used by FCS institutions to adjust financial ratios such as debt-to-income that are then used to make credit decisions. For example, in a recent review, FCA examination staff determined that information contained in a consumer credit report resulted in a FCS institution adjusting the debt reported by the applicant which, in part, contributed to the denial of the application. In that case, the adverse action notice

provided to the applicant was required to include a disclosure of the role the consumer credit report played in the final credit decision. While the impact of those adjustments can range from insignificant to material, any time information contained in a consumer credit report contributes to an adverse action, FCS institutions must make required disclosures. Attached are five sample "adverse action" notices from Regulation B that include the FCRA disclosure of the role a consumer credit report played in the decision.

FCS institutions should make sure they have effective procedures to address matters similar to those discussed above. It may be necessary to amend, develop, and/or adopt additional guidelines addressing the items discussed in this memorandum. If you have any questions about this memorandum, please call Jennifer A. Cohn, Senior Attorney, Office of General Counsel, at (703) 883-4020, or e-mail her at cohnj@fca.gov.

Attachment