

Fair Credit Reporting Act¹

Introduction

The Fair Credit Reporting Act (FCRA) (15 USC §§1681-1681u) became effective on April 25, 1971. The FCRA is a part of a group of acts contained in the Federal Consumer Credit Protection Act (15 USC §1601 et seq.), such as the Truth in Lending Act and the Fair Debt Collection Practices Act. Congress subsequently passed the Consumer Credit Reporting Reform Act of 1996 (Pub. L. No. 104-208, 110 Stat. 3009-426), which substantially revised the FCRA. These revisions generally became effective on September 30, 1997. Minor amendments to the FCRA were made in 1997 and 1998. The Gramm-Leach-Bliley Act (Pub. L. No. 106-102, 113 Stat. 1338 (1999)) made additional changes, including provisions removing a previous statutory prohibition against conducting routine FCRA examinations, and permitting regulations to be adopted to implement the requirements of the FCRA.

The FCRA was substantively amended in 2003 upon the passage of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) (Pub. L. No. 108-159, 117 Stat. 1952). The FACT Act created many new responsibilities for consumer reporting agencies and users of consumer reports. It contained many new consumer disclosure requirements as well as provisions to address identity theft. In addition, it provided free annual consumer report rights for consumers and improved access to consumer report information to help increase the accuracy of data in the consumer reporting system.

The FCRA contains significant responsibilities for business entities that are consumer reporting agencies and lesser responsibilities for those that are not. Generally, financial institutions are not considered to function as consumer reporting agencies; however, depending on the degree to which their information sharing business practices approximate those of a consumer reporting agency, they can be deemed as such.

In addition to the requirements related to financial institutions acting as consumer reporting agencies, FCRA requirements also apply to financial institutions that operate in the following capacities:

1. Procurers and users of information (for example, as credit grantors, purchasers of dealer paper, or when opening deposit accounts);
2. Furnishers and transmitters of information (by reporting information to consumer reporting agencies or other third parties, or to affiliates);

3. Marketers of credit or insurance products; or
4. Employers.

Structure and Overview of Examination Modules

The examination procedures are structured as a series of modules, grouping similar requirements together. General information about each of the requirements is followed by the examination steps.

Financial institutions are subject to a number of different requirements under the FCRA, of which some are contained directly in the statute, while others are in regulations issued jointly by the FFIEC agencies, while others still are contained in regulations issued by the Federal Reserve Board and/or the Federal Trade Commission. **Job Aids** at the end of this section contains a matrix of the different statutory and regulatory cites applicable to financial institutions that are not consumer reporting agencies. This matrix is sorted by federal regulator.

Key Definitions

There are a number of definitions used throughout the FCRA. Key definitions include the following:

“**Consumer**” is defined as an individual.

“**Consumer report**” is any written, oral, or other communication of any information by a consumer reporting agency that bears on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected, in whole or in part, for the purpose of serving as a factor in establishing the consumer’s eligibility for:

1. Credit or insurance to be used primarily for personal, family, or household purposes;
2. Employment purposes; or
3. Any other purpose authorized under section 604 (15 USC §1681b).

The term “consumer report” does *not* include:

1. Any report containing information solely about transactions or experiences between the consumer and the institution making the report;
2. Any communication of that transaction or experience information among entities related by common ownership or affiliated by corporate control (for example, different banks that are members of the same holding company, or subsidiary companies of a bank);

¹ This section fully incorporates the examination procedures issued under DSC RD Memo 06-005: Revised Interagency Examination Procedures for the Fair Credit Reporting Act and DSC RD Memo 06-011: Fair Credit Reporting Act-Medical Information Regulation Examination Procedures.