



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-98-2007
November 7, 2007

FAIR AND ACCURATE CREDIT TRANSACTIONS ACT

Final Interagency Regulations on Affiliate Marketing

Summary: The FDIC, the other federal financial institution regulatory agencies, the Securities and Exchange Commission, and the Federal Trade Commission have jointly published the attached final rules to implement the affiliate marketing provisions of the Fair Credit Reporting Act (FCRA) as amended by the Fair and Accurate Credit Transactions Act (FACT Act.) The final rules implement Section 214 of the FACT Act, which generally prohibits a person from using information received from an affiliate to make a solicitation for marketing purposes to a consumer, unless the consumer is given notice and a reasonable opportunity and a reasonable and simple method to opt-out of making such solicitations.

Distribution:

FDIC-Supervised Banks (Commercial and Savings)

Suggested Routing:

Chief Executive Officer
Compliance Officer

Related Topics:

- FDIC Part 334 – Fair Credit Reporting
- FCRA – Section 603(d)

Attachment:

(INSERT FR # / DATE)

Contact:

Senior Policy Analyst (Compliance) David Lafleur at (202) 898-6569 or dlafleur@fdic.gov
Senior Policy Analyst (Compliance) John Jackwood at (202) 898-3991 or jjackwood@fdic.gov

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Highlights:

- The regulation contains the consumer opt-out right concerning the use of shared eligibility information for marketing solicitations. The regulation also contains exceptions to the opt-out requirements when affiliates have pre-existing business relationships with consumers and for other situations, including certain employment functions, consumer-initiated requests and authorizations, and the use of service providers.
- Institutions are reminded that the sharing of certain non-transaction and experience information about consumers with affiliates is still subject to a separate opt-out right under Section 603(d) of the FCRA.
- The regulations also contain the technical notice and opt-out processing requirements, which are consistent, to the extent possible, with similar provisions of the Financial Privacy regulations.
- Financial institutions have the option to provide disclosures separately or combine them with existing privacy notices. Sample consumer notices are contained in Appendix A to the regulation.
- The final rules are effective January 1, 2008, and mandatory compliance is required by October 1, 2008.