

Module 1: Obtaining Consumer Reports

Overview

Consumer reporting agencies have a significant amount of personal information about consumers. This information is invaluable in assessing a consumer's creditworthiness for a variety of products and services, including loan and deposit accounts, insurance, and utility services, among others. Access to this information is governed by the Fair Credit Reporting Act (FCRA) to ensure that it is obtained for permissible purposes and not exploited for illegitimate purposes.

The FCRA requires any prospective "user" of a consumer report, for example a lender, insurer, landlord, or employer, among others, to have a legally permissible purpose to obtain a report.

Section 604 Permissible Purposes of Consumer Reports and Section 606 Investigative Consumer Reports

Legally Permissible Purposes. The FCRA allows a consumer reporting agency to furnish a consumer report for the following circumstances and no other:

1. In response to a court order or Federal Grand Jury subpoena.
2. In accordance with the written instructions of the consumer.
3. To a person, including a financial institution, which it has reason to believe:
 - a. Intends to use the report in connection with a credit transaction involving the consumer (includes extending, reviewing, and collecting credit);
 - b. Intends to use the information for employment purposes;²
 - c. Intends to use the information in connection with the underwriting of insurance involving the consumer;
 - d. Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality that is required by law to consider an applicant's financial responsibility;
 - e. Intends to use the information, as a potential investor or servicer, or current insurer, in connection with a valuation of, or an assessment of the credit or prepayment risks associated with, an existing credit obligation; or
 - f. Otherwise has a legitimate business need for the information:

- i. In connection with a business transaction that is initiated by the consumer; or
 - ii. To review an account to determine whether the consumer continues to meet the terms of the account.
4. In response to a request by the head of a State or local child support enforcement agency (or authorized appointee) if the person certifies various information to the consumer reporting agency regarding the need to obtain the report. (Generally, this particular purpose does not impact a financial institution that is not a consumer reporting agency.)

Prescreened Consumer Reports. Users of consumer reports, such as financial institutions, may obtain prescreened consumer reports to make firm offers of credit or insurance to consumers, unless the consumers have elected to opt out of being included on prescreened lists. The FCRA contains many requirements, including an opt out notice requirement when prescreened consumer reports are used. In addition to defining prescreened consumer reports, Module 3 covers these requirements.

Investigative Consumer Reports. Section 606 contains specific requirements for use of an investigative consumer report. This type of consumer report contains information about a consumer's character, general reputation, personal characteristics, or mode of living that is obtained in whole or in part through personal interviews with neighbors, friends, or associates of the consumer. If a financial institution procures an investigative consumer report, or causes one to be prepared, the institution must meet the following requirements:

1. The institution clearly and accurately discloses to the consumer that an investigative consumer report may be obtained.
2. The disclosure contains a statement of the consumer's right to request other information about the report, and a summary of the consumer's rights under the FCRA.
3. The disclosure is in writing and is mailed or otherwise delivered to the consumer not later than three business days after the date on which the report was first requested.
4. The financial institution procuring the report certifies to the consumer reporting agency that it has complied with the disclosure requirements and will comply in the event that the consumer requests additional disclosures about the report.

Institution Procedures. Given the preponderance of electronically available information and the growth of identity theft, financial institutions should manage the risks associated with obtaining and using consumer reports. Financial institutions should employ procedures, controls, or other safeguards to ensure that consumer reports are obtained

² Use of consumer reports for employment purposes requires specific advanced authorization, disclosure, and adverse action notices. These issues are contained in Module 3 of the examination procedures.

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and used only in situations for which there are permissible purposes. Access to, and storage and destruction of this information is dealt with under an institution's Information Security Program; however, obtaining consumer reports initially must be done in compliance with the FCRA.

Examination Procedures

Section 604 Permissible Purposes of Consumer Reports and Section 606 Investigative Consumer Reports

1. Determine whether the financial institution obtains consumer reports.
 2. Determine whether the institution obtains prescreened consumer reports and/or reports for employment purposes. If so, complete the appropriate sections of Module 3.
 3. Determine whether the financial institution procures or causes to be prepared an investigative consumer report. If so, ensure that the appropriate disclosure is given to the consumer within the required time periods. In addition, ensure that the financial institution certified compliance with the disclosure requirements to the consumer reporting agency.
 4. Evaluate the institution's procedures to ensure that consumer reports are obtained only for permissible purposes. Confirm that the institution certifies to the consumer reporting agency the purposes for which it will obtain reports. (The certification is usually contained in a financial institution's contract with the consumer reporting agency.)
5. If procedural weaknesses are noted or other risks requiring further investigation are noted, such as the receipt of several consumer complaints were received, review a sample of consumer reports obtained from a consumer reporting agency and determine whether the financial institution had permissible purposes to obtain the reports.
 - For example, obtain a copy of a billing statement or other list of consumer reports obtained by the financial institution from the consumer reporting agency for a period of time.
 - Compare this list, or a sample from this list to the institution's records to ensure that there is a permissible purpose for the report(s) obtained. This could include any permissible purpose, such as the consumer applied for credit, insurance, or employment, etc. The financial institution may also obtain a report in connection with the review of an existing account.