

## Examination Procedures Consumer Reporting Agencies

Exam Date:	[Click&type]
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Docket #:	[Click&type]
Entity Name:	[Click&type]

These examination procedures are intended for use in examining larger participants in the consumer reporting market. The procedures contain a series of modules, grouping similar requirements together. Prior to using these procedures, examiners should complete a risk assessment and scope memorandum. Depending on the scope, and in conjunction with the compliance management system review procedures, each examination will cover one or more of the following modules:

1. Entity Business Model
2. Accuracy of Information and Furnisher Relations
3. Contents of Consumer Reports
4. Permissible Purposes and Other User Issues
5. Consumer File and Score Disclosures
6. Consumer Inquiries, Complaints, and Disputes and the Reinvestigation Process
7. Consumer Alerts and Identity Theft Provisions
8. Prescreening, Employment Reports, and Investigative Consumer Reports
9. Other Products and Services and Risks to Consumers
10. Examination Conclusions and Wrap-Up

## Examination Objectives

- To evaluate the quality of the regulated entity's compliance management systems, including its internal controls and policies and procedures, related to its consumer reporting business.
- To identify acts or practices that materially increase the risk of violations of federal consumer financial law in connection with consumer reporting.
- To gather facts that help to determine whether a regulated entity engages in acts or practices that violate the requirements of federal consumer financial law.
- To determine, in accordance with CFPB internal consultation requirements, whether a violation of federal consumer financial law has occurred and whether further supervisory or enforcement actions are appropriate.

## **Background**

A consumer report contains information about a consumer, such as a credit history and other transaction details. Lenders use one type of consumer report—commonly referred to as credit reports—to assess borrower risk when evaluating applications for credit cards, home mortgage loans, automobile loans, and other types of credit. Consumer reports also may be used for a number of other purposes, such as to determine eligibility and pricing for other types of products and services and other relationships. The consumer reporting market affects hundreds of millions of consumers.

The Dodd-Frank Act (12 U.S.C. 5514(a)(1)(B)) gave the Consumer Financial Protection Bureau (“CFPB”) supervisory authority over “larger participants” of markets for consumer financial products or services, as the CFPB defines by rule. In July 2012, the CFPB finalized its larger participant regulation in the market of consumer reporting (77 Fed. Reg. 42874). The rule, which appears in 12 CFR Part 1090, and was published in the Federal Register on July 20, 2012, is effective September 30, 2012. It provides that a nonbank covered person that offers or provides consumer reporting is a larger participant of the consumer reporting market if the person’s annual receipts resulting from consumer reporting are more than \$7 million. (12 CFR 1090.104(b)). Under the regulation, “consumer reporting” includes different types of consumer reporting entities, such as credit bureaus, resellers, specialty consumer reporting agencies, and analyzers of consumer report information and other account information. (12 CFR 1090.104(a)(4); 77 Fed. Reg. at 42875, 42883-85).

These entities perform a variety of functions. For example, credit bureaus collect information, including credit account information, items sent for collection, and public records such as bankruptcies. Resellers purchase consumer information from one or more consumer reporting agencies, typically provide further input to the consumer report (including by merging files from multiple agencies or adding information from other data sources), and then resell the report to lenders and other users. Specialty consumer reporting agencies primarily collect and provide specific types of information that may be used to make eligibility decisions for particular consumer financial products or services, such as payday loans or checking accounts, or for decisions in other areas. Analyzers apply statistical and other methods to consumer report information to facilitate the interpretation of that information and its use in decisions regarding other products and services. For example, they may develop and sell credit scoring services and products.

A key federal consumer financial law relevant specifically to the consumer reporting market is the Fair Credit Reporting Act (“FCRA”) (15 U.S.C. 1681 et seq.).<sup>1</sup> The FCRA was enacted in 1971 and significantly amended in 1996, 2003, 2010, and 2018. Together with its implementing regulation, Regulation V,<sup>2</sup> it creates a regulatory framework for the furnishing, use, and disclosure

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<sup>1</sup> For clarity, these procedures refer to the FCRA by listing the section of the Act followed by the relevant section of Title 15 of the U.S. Code (e.g., Section 603; 15 U.S.C. 1681a).

<sup>2</sup> Pursuant to its authority under the Dodd-Frank Act, the CFPB in late 2011 restated the FCRA’s implementing rules in Regulation V, 12 CFR Part 1022.

of information in reports associated with credit, insurance, employment, and other decisions made about consumers. In doing so, it imposes a number of obligations on entities that qualify as “consumer reporting agencies.” It also imposes obligations on persons who use consumer report information (“users”) or furnish information to consumer reporting agencies (“furnishers”).

While there is considerable overlap, the definition of “consumer reporting” in the CFPB’s larger participant rule does not mirror the FCRA’s definitions of “consumer report” or “consumer reporting agency.”<sup>3</sup> As a result, an entity that is subject to the larger participant rule may or may not be a “consumer reporting agency” for FCRA purposes. Module 1 includes procedures to determine whether a particular larger participant is a “consumer reporting agency” and meets other FCRA definitions. If a particular larger participant is determined not to be a “consumer reporting agency” in Module 1, examiners should consult with Headquarters on the extent to which the remaining modules apply to the entity being examined (since many presuppose the existence of a consumer reporting agency) and on the extent to which other federal consumer financial laws apply to the entity.

If a larger participant operates as a consumer reporting agency, the FCRA requires it to employ reasonable procedures, in preparing consumer reports, to “assure maximum possible accuracy” of the information concerning the individual about whom the report relates. (Section 607(b); 15 U.S.C. 1681e(b)). A consumer reporting agency may provide only consumer reports in specific circumstances and must adopt reasonable procedures to ensure a consumer report is provided only when the requester has a permissible purpose. (Section 604; 15 U.S.C. 1681b; Section 607(a); 15 U.S.C. 1681e(a)). Consumers have the right to access information in their files at consumer reporting agencies and the right to dispute information and have it corrected if it is found to be inaccurate. (Section 609(a); 15 U.S.C. 1681g(a); Section 611(a)(1); 15 U.S.C. 1681i(a)(1)). The FCRA provides consumers additional protections such as the opportunity to elect not to receive prescreening offers and to request fraud and active duty alerts. (Section 604(e)(5); 15 U.S.C. 1681b(e)(5); Section 605A; 15 U.S.C. 1681c-1).

The FCRA also imposes special obligations on two types of consumer reporting agencies that operate nationwide, known as “nationwide consumer reporting agencies” (Section 603(p); 15 U.S.C. 1681a(p)) and “nationwide specialty consumer reporting agencies” (Section 603(x); 15 U.S.C. 1681a(x)). For example, these nationwide agencies generally must provide consumers a free file disclosure every twelve months upon request. (Section 612(a); 15 U.S.C. 1681j(a)).

In addition to complying with all applicable provisions of the FCRA, larger participants of the consumer reporting market must comply with other applicable federal consumer financial laws. For example, the Gramm-Leach-Bliley Act (GLBA) and its implementing regulation, Regulation P,<sup>4</sup> govern how nonpublic personal information that financial institutions collect about consumers can be shared with nonaffiliated third parties and what financial institutions must tell consumers

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<sup>3</sup> Compare 12 CFR 1090.104 with FCRA Section 603(d), (f); 15 U.S.C. 1681a(d), (f).

<sup>4</sup> In 2011, the CFPB restated various privacy regulations that had been issued by other federal agencies under the Gramm-Leach-Bliley Act. The resulting Regulation P appears at 12 CFR Part 1016.

about their information-sharing practices. These provisions limit how consumer reporting agencies can disclose to nonaffiliated third parties nonpublic personal information obtained from financial institutions (such as credit header information<sup>5</sup>) if the disclosure is not part of a consumer report. (12 CFR 1016.11; *see generally* 65 Fed. Reg. 33646, 33668 (May 24, 2000)).

To carry out the objectives set forth in the Examination Objectives section, the examination process also will include assessing other risks to consumers. These risks may include potentially unfair, deceptive, or abusive acts or practices (UDAAPs). Please refer to the examination procedures regarding UDAAPs in the CFPB examination manual for information about the legal standards and the CFPB's approach to examining for UDAAPs. The particular facts and circumstances in a case are crucial to the determination of UDAAPs. As set out in the Examination Objectives section, examiners should consult with Headquarters to determine whether the applicable legal standards have been met before a violation of any federal consumer financial law could be cited, including a UDAAP violation.

## General Considerations

Completing the following examination modules will allow examiners to develop a thorough understanding of the regulated entity's practices and operations. To complete the modules, examiners should obtain and review the following as applicable:

- Organizational charts and process flowcharts;
- Board minutes, annual reports, or the equivalent to the extent available;
- Relevant management reporting;
- Policies and procedures, including complaint monitoring procedures;
- Applications from prospective furnishers and users;
- Furnisher and user audit results;
- Samples of individual consumer reports, file disclosures, and disputes and responses to them, and other consumer reporting product outputs, notes, and disclosures;
- Telephone recordings;
- Operating and compliance checklists, worksheets, and review documents;
- Relevant computer program and system details;
- Due diligence and monitoring procedures;

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<sup>5</sup> "Credit header" information refers to basic information in a credit report that identifies the person who is the subject of the report, such as name, variations of names, current and prior addresses, and phone numbers.

- Compensation policies;
- Historical examination information;
- Audit and compliance reports, and management responses to findings;
- Training programs and materials;
- Third-party contracts, including agreements with furnishers and users; and
- Advertisements, marketing research, and website information.

Depending on the scope of the examination, examiners should perform transaction testing using sampling procedures, which may require use of a judgmental or statistical sample. Examiners also should conduct interviews with management and staff to determine whether they understand and consistently follow the policies, procedures, and regulatory requirements applicable to consumer reporting and implement effective controls.

Examiners should review relevant consumer complaints in scoping and conducting examinations, as appropriate. Examiners also may consider conducting user, furnisher, and/or consumer interviews.

**Examination Procedures  
Module 1 - Entity Business Model**

**NATURE OF OPERATIONS FOR FCRA PURPOSES**

Assess whether the entity operates as a “consumer reporting agency,” a “nationwide consumer reporting agency,” a “nationwide specialty consumer reporting agency,” and/or a “reseller” for FCRA purposes by making the following determinations:

1. **Consumer Reporting Agency.** Determine in consultation with Headquarters if the entity operates as a “consumer reporting agency.” (Section 603(f); 15 U.S.C. 1681a(f)). Definitions of “consumer reporting agency” and “consumer report” (including a list of items that are not “consumer reports”) are set forth in the Glossary. If the entity does not operate as a “consumer reporting agency,” contact Headquarters for instructions before proceeding with the remaining examination procedures.

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2. **Nationwide Consumer Reporting Agency.** Determine in consultation with Headquarters whether the entity operates as a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (hereinafter a “nationwide consumer reporting agency”) by assessing whether it is a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer’s credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:
  - a. Public record information and
  - b. Credit account information from persons who furnish that information regularly and in the ordinary course of business. (Section 603(p); 15 U.S.C. 1681a(p)).

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3. **Circumvention or Evasion of Treatment as a Nationwide Consumer Reporting Agency.** If the answer to step 2 above is no, assess whether the entity is circumventing or evading treatment as a nationwide consumer reporting agency by any means, including but not limited to:
  - a. Corporate organization, reorganization, structure, or restructuring, including merger, acquisition, dissolution, divestiture, or asset sale of a consumer reporting agency (for example, by (1) restructuring operations so that certain data types are assembled and maintained only by a corporate affiliate or (2) restructuring so that corporate affiliates separately assemble and maintain all information on consumers residing in each state); or
  - b. Maintaining or merging public record and credit account information in a manner that is substantially equivalent to that described in steps 2a and 2b above.

If the entity is circumventing or evading treatment as a nationwide consumer reporting agency, assess whether the entity is in compliance with all obligations imposed upon

nationwide consumer reporting agencies in reviewing the remaining modules. (15 U.S.C. 1681x; 12 CFR 1022.140(c)).

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4. **Nationwide Specialty Consumer Reporting Agency.** Determine in consultation with Headquarters whether the entity qualifies as a “nationwide specialty consumer reporting agency” by determining whether it is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to:
  - a. Medical records or payments,
  - b. Residential or tenant history,
  - c. Check writing history,
  - d. Employment history, or
  - e. Insurance claims. (Section 603(x); 15 U.S.C. 1681a(x)).

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5. **Reseller.** Determine in consultation with Headquarters whether the entity operates as a “reseller” by determining whether it is a consumer reporting agency that:
  - a. Assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and
  - b. Does not maintain a database of the assembled or merged information from which new consumer reports are produced. (Section 603(u); 15 U.S.C. 1681a(u)).

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## **AFFILIATES AND OTHER THIRD-PARTY RELATIONSHIPS**

6. **Affiliates.**
  - a. Ascertain whether the entity is affiliated with any other entities.
  - b. If so, determine:
    - i. The identities of the affiliates,
    - ii. The nature of their business activities, including whether any of the affiliates operate as consumer reporting agencies, and
    - iii. The ownership and governance structure of the affiliates.
7. **Service Providers.** Determine whether the entity uses any service providers in conducting its consumer reporting business. If so:

- a. Identify who the service providers are, whether they are affiliated with the entity, and what services they perform, and
- b. Assess whether the entity:
  - i. Requests and reviews the service providers' policies, procedures, internal controls, and training materials to ensure that the service providers conduct appropriate training and oversight of employees or agents that have consumer contact or compliance responsibilities;
  - ii. Includes in its contracts with its service providers clear expectations about compliance as well as appropriate and enforceable consequences for violating any compliance-related responsibilities;
  - iii. Establishes internal controls and ongoing monitoring to determine whether its service providers are complying with federal consumer financial law; and
  - iv. Takes prompt action to address fully any problems identified through the monitoring process, including terminating the relationship where appropriate. *See* CFPB Bulletin 2012-03 (April 13, 2012).

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**INTERNAL STRUCTURE, CONTROLS, AND COMPLIANCE MANAGEMENT**

8. **Organizational Structure.** Review the organizational chart to determine the reporting structure and the responsibilities of key managers for consumer reporting activities.

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9. **Staff Who Interact With Consumers.** Review the qualifications, experience levels, and training programs that the company requires or uses for staff who interact with consumers.

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10. **Compliance Management Review.** Review the entity's general compliance management system using the compliance management review section of the CFPB examination manual.

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**CUSTOMER BASE AND PRODUCTS AND SERVICES OFFERED**

11. **Furnishers.** If the entity assembles information about consumers, identify who furnishes the information to the entity (including, for example, by type of business or industry).

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12. **Users.** If the entity provides consumer reports to third parties, identify the third parties that use reports from the entity (including, for example, by type of business or industry).



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13. **Specialization.** Ascertain whether the entity specializes in collecting and reporting particular types of information and, if so, what types.

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14. **Prescreening.** Determine if the entity engages in “prescreening,” by furnishing consumer reports (e.g., lists of consumers) in connection with any credit or insurance transactions that are not initiated by the consumers (to solicit the consumers to obtain credit or insurance) and where the consumers have not authorized the entity to provide such reports. (Section 603(l); 15 U.S.C. 1681a(l); Section 604(c)(1); 15 U.S.C. 1681b(c)(1)). Prescreening is discussed further in Module 8.

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15. **Employment Reports.** Determine if the entity furnishes any reports for employment purposes and, if so, to whom (including, for example, by type of business or industry). (Section 603(h); 15 U.S.C. 1681a(h); Section 604(b); 15 U.S.C. 1681b(b)). Employment reports are discussed further in Module 8.

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16. **Investigative Consumer Reports.** Determine whether the entity provides any “investigative consumer reports.” (Section 603(e); 15 U.S.C. 1681a(e)). Investigative consumer reports are defined in the Glossary and discussed in Module 8.

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17. **Credit Scoring and Other Scoring Products.**

- a. Determine whether the entity offers any credit scores to third parties. Refer to the Glossary for the definition of “credit score” for these procedures.
- b. Determine whether the entity offers any other types of scoring products to third parties, such as insurance scores.
- c. If the answer to (a) or (b) above is yes, determine:
  - i. What role the entity plays in developing or modifying the scores and scoring products,
  - ii. Whether any other parties are involved in developing or modifying the scores and scoring products, and
  - iii. To whom the scores and scoring products are offered and provided.

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18. **Other Products or Services.** Ascertain whether the entity offers any types of products or services other than consumer reports and scoring products. If so, review all of these products

and services and to whom they are offered and provided. Other products and services are discussed further in Module 9.

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## 19. Relationship of FCRA and Non-FCRA Products and Services.

- a. Determine if the entity offers some products and services that are subject to the FCRA and other products and services that the entity does not treat as subject to the FCRA.
- b. If so, identify:
  - i. All products and services that the entity treats as not subject to the FCRA,
  - ii. The information sources and uses for such products, and
  - iii. Any policies, practices, and procedures deployed by the entity to differentiate between the products and services that it treats as subject to the FCRA and those that it treats as not subject to the FCRA.
- c. For products that the entity deems not subject to the FCRA, identify the criteria relied on for treating each product as non-FCRA.
- d. Assess in consultation with Headquarters whether there are any products or services offered by the entity that constitute “consumer reports,” but that the entity is not treating as subject to the FCRA.
- e. Consult with Headquarters on whether any other federal consumer financial laws should be reviewed with respect to those products and services that are not subject to the FCRA.

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## **Module 2 - Accuracy of Information and Furnisher Relations**

This module discusses the FCRA requirement that consumer reporting agencies employ reasonable procedures in preparing consumer reports to assure maximum possible accuracy of consumer information, as well as other FCRA requirements relating to dealings with furnishers. Additional FCRA requirements related to accuracy are addressed in other modules (such as Module 6, which addresses how disputes must be handled).

1. **Reasonable Procedures to Ensure Maximum Possible Accuracy.** Assess whether the entity follows reasonable procedures, in preparing a consumer report, to assure maximum possible accuracy of information concerning the individual to whom the report relates. (Section 607(b); 15 U.S.C. 1681e(b)). In doing so, consider all relevant factors, including the following:
  - a. **Screening of furnishers.** Determine what measures the entity uses to screen furnishers.
  - b. **Form and manner in which information is reported.** Assess the steps the entity takes to ensure that information is furnished in a form and manner that minimizes the likelihood that the information may be incorrectly reflected in a consumer report. Consider, for example, whether the entity ensures that reported information:
    - i. Includes appropriate identifying information about the consumer to whom it pertains,
    - ii. Is furnished in a clearly understandable form and manner, and
    - iii. Is furnished with a date specifying the time period to which the information pertains.
  - c. **Screening and matching of information from furnishers.**
    - i. Review procedures used by the entity to screen information received from furnishers for accuracy, including any audit procedures or other quality control measures. Identify relevant data quality metrics used by the entity. Assess how the entity responds if it receives poor quality data from a particular furnisher.
    - ii. Review procedures used by the entity to match data to the appropriate consumer file.
  - d. **Measures to prevent duplicative tradelines on reports.** Assess the measures utilized by the entity to ensure that reports do not include duplicative tradelines. Review, for example, what information the entity requires furnishers to provide—such as information to identify the original creditor for debts—before it accepts tradelines.
  - e. **Other measures to test accuracy.** Review any other measures utilized by the entity to assess the accuracy of consumer information. Identify the nature of all such measures.

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2. **Notice of Furnisher Responsibilities.** Determine whether the entity provides a notice of furnisher responsibilities under the FCRA to every person who regularly and in the ordinary course of business furnishes consumer information to the entity. (Section 607(d); 15 U.S.C. 1681e(d)). Review the terms of the notice provided to determine whether it is substantially similar to the model notice in Appendix M to Regulation V (12 CFR Part 1022).

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### **Module 3 - Contents of Consumer Reports**

This module addresses the FCRA's requirements governing what consumer reporting agencies must include in or exclude from consumer reports.

1. **Required Information in Consumer Reports.** Determine whether the entity includes the following required information in its consumer reports:
  - a. **Bankruptcy information.** If the report identifies information regarding a case under Title 11 of the U.S. Code that involves the consumer:
    - i. The chapter of Title 11 invoked (e.g., chapter 7, 11, etc.) if provided by the source of the information and
    - ii. The fact that the bankruptcy action has been withdrawn before a final judgment, if the entity has received documentation so certifying. (Section 605(d)(1); 15 U.S.C. 1681c(d)(1)).
  - b. **Voluntary closure of account.** The fact that an account was voluntarily closed by the consumer, if the entity includes information related to the account in the report after receiving notification from the furnisher that the account was voluntarily closed. (Section 605(e); 15 U.S.C. 1681c(e)).
  - c. **Inquiries as factor.** If the entity provides a consumer report that contains any credit or other risk score or predictor on any consumer and a key factor that adversely affected such score or predictor was the number of inquiries, a clear and conspicuous statement that a key factor that adversely affected such score or predictor was the number of inquiries (unless the entity is a check services company, acting as such, to the extent that it is engaged in issuing authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments). (Section 605(d)(2); 15 U.S.C. 1681c(d)(2)).
  - d. **Existence of a dispute.** The fact that the consumer disputes information, if the entity includes disputed information in the report after receiving notification from a furnisher of the dispute. (Section 605(f); 15 U.S.C. 1681c(f)).
  - e. **Overdue child support obligations.** Any information on the failure of the consumer to pay overdue support which:
    - i. Is provided
      - A. To the consumer reporting agency by a state or local child support enforcement agency; or
      - B. To the consumer reporting agency and verified by any local, state, or federal government agency; and
    - ii. Predates the report by seven years or less. (Section 622; 15 U.S.C. 1681s-1).

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2. **Prohibited Information in Consumer Reports.** Determine whether the entity provides reports that include any of the following prohibited types of information.
  - a. **Previously deleted information.** Determine whether the entity includes in consumer reports or in a consumer's file information that was previously deleted from the consumer's file (unless the information has been reinserted based on a certification from the furnisher that the information is complete and accurate). (Section 611(a)(5)(B)(i), (5)(C); 15 U.S.C. 1681i(a)(5)(B)(i), (5)(C)).
  - b. **Obsolete information.** The FCRA prohibits the inclusion of the five types of information listed below in all reports except those reports used in connection with (1) credit transactions or life insurance underwriting that involve or may reasonably be expected to involve at least \$150,000 or (2) individual employment decisions where the annual salary equals or may reasonably be expected to equal \$75,000 or more. For all reports that do not fall within these two exemptions, determine whether the entity includes any of the following types of prohibited information:
    - i. Cases under Title 11 or the Bankruptcy Act, if the date of entry of the order for relief or the date of adjudication is more than 10 years earlier than the date of the report;
    - ii. Civil suits, civil judgments, and records of arrest, if:
      - A. The governing statute of limitations had expired as of the date of the report and
      - B. The date of entry is more than seven years before the date of the report;
    - iii. Paid tax liens if the date of payment is more than seven years before the date of the report;
    - iv. Accounts placed for collection or charged to profit and loss that are more than seven years old as of the date of the report, provided that:
      - A. For delinquent accounts placed for collection, charged to profit and loss, or subjected to any similar action, the seven-year period begins 180 days after the date of delinquency that immediately preceded the collection activity, charge to profit and loss, or similar action, but
      - B. Special triggering rules apply for reporting on Federal Family Education Loans, 20 U.S.C. 1080a(f), and
      - C. Information regarding the status of Perkins Loans may be reported until the loan is paid in full, 20 U.S.C. 1087cc(c)(3); or
    - v. Any other adverse item of information (other than records of convictions of crimes) that is more than seven years old as of the date of the report. (Section 605(a)-(c); 15 U.S.C. 1681c(a)-(c)).

- c. **Medical contact information.** Determine whether the entity includes the name, address, and telephone number of any medical information furnisher that has notified the agency of its status, *other than* under the following permitted circumstances:
  - i. The name, address, and telephone number are restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of the services, products, or devices to a person other than the consumer or
  - ii. The report is being provided to an insurance company for a purpose relating to engaging in the business of insurance other than property and casualty insurance. (Section 605(a)(6); 15 U.S.C. 1681c(a)(6)).
  
- d. **Veteran's medical debt.** Determine whether the entity (must be a nationwide CRA defined in Section 603(p)) complies with the requirements related to veteran's medical debt.
  - i. Determine whether the consumer reporting agency uses the database as a means to identify whether furnished information about consumers is related to a veteran's medical debt. (Section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act; Pub. L. No. 115-174; 132 Stat. 1296 (2018)).
  - ii. Determine whether the entity provides reports that include any of the following prohibited types of information regarding veteran's medical debt:
    - A. Any information related to a veteran's medical debt, if the date on which the hospital care, medical services, or extended care services was rendered relating to the debt precedes the consumer report by less than 1 year if the consumer reporting agency has actual knowledge that the information is related to a veteran's medical debt and the consumer reporting agency is in compliance with its obligation under section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act. (Section 605(a)(7); 15 U.S.C. 1681c(a)(7)).
    - B. Any information related to a fully paid or settled veteran's medical debt that had been characterized as delinquent, charged off, or in collection if the consumer reporting agency has actual knowledge that the information is related to a veteran's medical debt and the consumer reporting agency is in compliance with its obligation under section 302(c)(5) of the Economic Growth, Regulatory Relief, and Consumer Protection Act. (Section 605(a)(8); 15 U.S.C. 1681c(a)(8)).
  
- e. **Other prohibited medical information.** Determine whether the entity provides consumer reports that contain any medical information about a consumer for employment purposes or in connection with a credit or insurance transaction, other than under any one of the following permitted circumstances:
  - i. The information consists of medical contact information treated in the manner specified in 2c above;

- ii. If furnished in connection with an insurance transaction, the consumer affirmatively consented to the furnishing of the report;
- iii. If furnished for employment purposes or in connection with a credit transaction:
  - A. The information is relevant to process or effect the employment or credit transaction and
  - B. The consumer provided specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or
- iv. The information pertains solely to transactions, accounts, or balances relating to debts arising from the receipt of medical services, products, or devices, where such information, other than account status or amounts, is restricted or reported using codes that do not identify, or do not provide information sufficient to infer, the specific provider or the nature of such services, products, or devices, as provided in step 2c above. (Section 604(g); 15 U.S.C. 1681b(g)).
- f. **Information subject to an identity theft block.** Determine whether the entity provides any consumer reports that include information that must be blocked pursuant to an identity theft block, as explained in steps 15-21 of Module 7. (Section 605B; 15 U.S.C. 1681c-2).
- g. **Prohibited information about prescreening inquiries.** Determine whether the entity includes information about “credit or insurance transactions that are not initiated by the consumer” (which are typically related to prescreened offers) in consumer reports. This prohibition does not apply to disclosure to the consumer of such inquiries made no more than one year prior to the consumer’s request for a file disclosure. Note that the term “credit or insurance transactions that are not initiated by the consumer” does *not* include the use of a consumer report by a person with which the consumer has an account or insurance policy, for purposes of reviewing the account or insurance policy or collecting the account. (Section 603(m); 15 U.S.C. 1681a(m); Section 604(c)(3); 15 U.S.C. 1681b(c)(3)).
- h. **Prohibited disclosure of the fact that government has sought or obtained information for counterterrorism purposes.**
  - i. Determine whether the entity has disclosed, in a consumer report or in any other manner, any information indicating that the FBI has sought or obtained a consumer report or information identifying the consumer’s financial institutions. If so, determine whether prior to making the disclosure, the agency received a certification from an appropriate FBI official that disclosure may:
    - A. Threaten national security;
    - B. Interfere with a criminal, counterterrorism, or counterintelligence investigation;



- C. Interfere with diplomatic relations; or
  - D. Endanger the life or physical safety of any person. (Section 626(d); 15 U.S.C. 1681u(d)).
- ii. Determine whether the entity discloses, in a consumer report or in any other manner, any information indicating that a government agency that conducts investigations, intelligence or counterintelligence activities, or analysis related to international terrorism has sought or obtained access to a consumer report or other information in the consumer's file. If so, determine whether prior to making the disclosure, the agency received a certification from an appropriate agency official that disclosure may:
- A. Threaten national security;
  - B. Interfere with a criminal, counterterrorism, or counterintelligence investigation;
  - C. Interfere with diplomatic relations; or
  - D. Endanger the life or physical safety of any person. (Section 627(c); 15 U.S.C. 1681v(c)).
- i. **Adverse information from previously prepared investigative reports.** If the entity prepares investigative consumer reports, determine whether any of its consumer reports include any adverse information from a previously-generated investigative consumer report (other than information that is a matter of public record). If so, determine whether:
- A. Such adverse information was verified in the process of preparing the subsequent consumer report or
  - B. The adverse information was received within the three-month period preceding the date the subsequent report was furnished. (Section 614; 15 U.S.C. 1681l).

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3. **Procedures Regarding Contents of Consumer Reports.** Determine whether the entity maintains adequate procedures to meet the FCRA requirements regarding information that must be contained in or excluded from consumer reports (described in steps 1 and 2 above). Consider in particular the following:
- a. Whether the entity has reasonable procedures in place to ensure that required information about bankruptcies, voluntary closures of accounts, and inquiries as factors is included and that disputed information is marked as such, as described in step 1 above;
  - b. Whether the entity uses reasonable procedures to ensure that information described in step 2b above is excluded from consumer reports once it is too old to be disclosed; and
  - c. Whether the entity has reasonable procedures in place to protect medical contact information, as described in step 2c above. (Section 607(a); 15 U.S.C. 1681e(a)).

(Procedures to prevent the reappearance of deleted information are addressed in step 15 of Module 6. Procedures related to identity theft and prescreening inquiries are discussed in step 1 of Module 7 and step 11 of Module 8, respectively.)

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## **Module 4 - Permissible Purposes and Other User Issues**

This module discusses various requirements that the FCRA imposes on consumer reporting agencies in their dealings with users of consumer reports. One such requirement is the obligation to ensure that anyone to whom it furnishes a consumer report has a permissible purpose (as detailed below) to obtain a report.

Examiners should note that reports made to governmental agencies that contain only identifying information (i.e., name, address, former addresses, places of employment, or former places of employment) are not subject to the permissible purpose requirement described below. (Section 608; 15 U.S.C. 1681f). The FCRA also requires certain disclosures, on proper certification, to the FBI for counterintelligence purposes and to other governmental agencies for counterterrorism purposes. (Section 626; 15 U.S.C. 1681u; Section 627; 15 U.S.C. 1681v).

1. **Verification of Identity and Uses of Prospective Users.** Determine whether the entity makes a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing a consumer report to the user. (Section 607(a); 15 U.S.C. 1681e(a)). Determine the steps the entity takes to verify the uses certified by prospective users (such as onsite visits to the users' places of business, checking the users' references, confirmation of applicants' business identity, examining applications and supporting documentation supplied by applicants, or other methods, to detect suspect representations, discrepancies, illogical information, suspicious patterns, factual anomalies, and other indicia of unreliability).

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2. **Certification of Purposes.** Determine whether the entity's procedures require prospective users of consumer reports to:
  - a. Identify themselves,
  - b. Certify the purposes for which the information is sought, and
  - c. Certify that the information will be used for no other purpose. (Section 607(a); 15 U.S.C. 1681e(a)).

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3. **Reasonable Procedures Regarding Permissible Purposes.** Determine whether the entity maintains reasonable procedures to ensure that, aside from the provision of consumer reports to government agencies in appropriate circumstances, consumer reports are furnished only in the following permissible circumstances:
  - a. In response to a court order or federal grand jury subpoena.
  - b. In accordance with the written instructions of the consumer.

- c. To a person that the entity has reason to believe intends to use the report as information for any of the following reasons:
  - i. In connection with a credit transaction involving the consumer on whom information is to be furnished and that involves (a) extending credit to the consumer, (b) reviewing an account of the consumer, or (c) collecting an account of the consumer;
  - ii. For employment purposes;
  - iii. In connection with the underwriting of insurance involving the consumer;
  - iv. 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 or status;
  - v. 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;
  - vi. Otherwise has a legitimate business need for the information:
    - A. In connection with a business transaction that the consumer initiates or
    - B. To review an account to determine whether the consumer continues to meet the terms of the account.
  - vii. To executive departments and agencies in connection with the issuance of government-sponsored individually billed travel charge cards.
- d. In response to a request by the head of a state or local child support enforcement agency (or authorized appointee) if the person making the request makes various certifications to the consumer reporting agency regarding the need to obtain the report.
- e. To an agency administering a state plan under 42 U.S.C. 654 to set an initial or modified child support award.
- f. To the Federal Deposit Insurance Corporation or the National Credit Union Administration in connection with its appointment or operation as a conservator, receiver, or liquidating agent for an insured depository institution or insured credit union or its resolution or liquidation of a failed or failing insured depository institution or insured credit union. (Section 604; 15 U.S.C. 1681b; Section 607(a); 15 U.S.C. 1681e(a)).

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4. **Reasonable Grounds for Belief That Information Will Be Misused.** Determine whether the entity has furnished a consumer report to any person even though the entity had reasonable grounds for believing that the consumer report would not be used for one of the permissible purposes listed in step 3 above. (Section 607(a); 15 U.S.C. 1681e(a)).

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**5. Specific Permissible Use Issues for Consumer Reporting Agencies That Furnish Reports for Resale.**

- a. Determine whether the entity provides reports to any person that seeks the report for purposes of reselling the report or any information in the report. (For purposes of this analysis and step 5b below, do not consider any reselling where the end-user is a federal agency or department that obtains the information in order to determine the consumer's eligibility for access to classified information and that certifies that nondisclosure is required for the reasons set forth in Section 607(e)(3) (15 U.S.C. 1681e(e)(3)).)
- b. If the entity does furnish reports that are used for resale, determine whether the entity requires the reseller to disclose to the entity the following information:
  - i. The identity of the end-user of the report (or information) and
  - ii. Each permissible purpose for which the report is furnished to the end-user of the report (or information). (Section 604; 15 U.S.C. 1681b; Section 607(e); 15 U.S.C. 1681e(e)).

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**6. Specific Permissible Use Issues for Entities that Resell Reports (or Information From Reports) Obtained From Other Consumer Reporting Agencies.**

- a. Determine whether the entity obtains consumer reports from another consumer reporting agency for purposes of reselling the report or any information in the report. (For purposes of this analysis and step 6b below, do not consider any reselling where the end-user is a federal agency or department that obtains the information in order to determine the consumer's eligibility for access to classified information and that certifies that nondisclosure is required for the reasons set forth in Section 607(e)(3) (15 U.S.C. 1681e(e)(3)).)
- b. If so, consider the following with respect to the entity's reselling activities:
  - i. Determine whether the entity discloses to the originating consumer reporting agency:
    - A. The identity of the end-user of the report or information and
    - B. Each permissible purpose for which the report or information is furnished to the end-user. (Section 607(e)(1); 15 U.S.C. 1681e(e)(1)).
  - ii. Assess whether the entity has established and complies with reasonable procedures designed to ensure that the report or information is resold only for a permissible purpose identified in step 3 above. Determine, for example, whether the entity requires each person to which the report or information is resold and that resells or provides the report or information to any other person to:

- A. Identify each end-user of the resold report or information,
  - B. Certify each purpose for which the report or information will be used, and
  - C. Certify that the report or information will be used for no other purpose. (Section 607(e)(2)(A); 15 U.S.C. 1681e(e)(2)(A)).
- iii. Assess whether the entity makes reasonable efforts before reselling any report to verify the identifications and certifications referred to in step 6bii above. (Section 607(e)(2)(B); 15 U.S.C. 1681e(e)(2)(B)).

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7. **Improper Limits on User Disclosures to Consumers.** Determine whether the entity prohibits any user of its consumer reports from disclosing the report's contents to the consumer, if adverse action against the consumer has been taken by the user based in whole or in part on the report. (Section 607(c); 15 U.S.C. 1681e(c)).

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8. **Required Notices to Users.** Determine whether the entity provides users with a notice of their responsibilities under the FCRA. (Section 607(d); 15 U.S.C. 1681e(d)). Review the content of the notice provided to determine:
- a. Whether it is substantially similar to the content prescribed in Appendix N to Regulation V (12 CFR Part 1022) and
  - b. Whether the information is clearly and prominently displayed.

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9. **Address Discrepancy Notices.** If the entity is a nationwide consumer reporting agency, determine whether it notifies persons who request consumer reports of the existence of an address discrepancy in all instances when:
- a. A request includes an address for the consumer that substantially differs from the addresses in the consumer's file and
  - b. The entity provides a consumer report in response to the request. (Section 605(h); 15 U.S.C. 1681c(h)).

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10. **Unauthorized disclosures by officers or employees.** Determine whether the entity has policies and procedures in effect to ensure that officers and employees do not provide information concerning an individual from the agency's files to a person not authorized to receive that information. (Section 620; 15 U.S.C. § 1681r).

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## **Module 5 - Consumer File and Score Disclosures**

This module assesses compliance with the FCRA provisions that require consumer reporting agencies to give consumers access to their files and scores.

### **1. Identification Required for Consumer Disclosures.**

- a. Determine whether the entity requires consumers to furnish proper identification in order to obtain disclosure of their files and/or scores. (Section 610(a)(1); 15 U.S.C. 1681h(a)(1)).
- b. Assess whether the entity has developed and implemented reasonable requirements for the types of information consumers need to provide to constitute proof of identity. Evaluate whether the entity:
  - i. Ensures that the information is sufficient to enable the entity to match consumers with their files and
  - ii. Adjusts the information to be commensurate with an identifiable risk of harm arising from misidentifying the consumer. (For illustrative examples, see 12 CFR 1022.123.)

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### **2. Statement of Rights to Be Provided With Disclosures.** Determine whether the entity provides the following with each written file disclosure provided at the consumer's request:

- a. A summary of rights that:
  - i. Is substantially similar to the CFPB's model summary in Appendix K to Regulation V (12 CFR Part 1022),
  - ii. Has all information clearly and prominently displayed, and
  - iii. Includes a description of:
    - A. The right of a consumer to obtain a copy of a consumer report under Section 609(a) (15 U.S.C. 1681g(a)) from each consumer reporting agency;
    - B. The frequency and circumstances under which a consumer is entitled to receive a free consumer report under Section 612 (15 U.S.C. 1681j);
    - C. The right of a consumer to dispute information in the consumer's file under Section 611 (15 U.S.C. 1681i);
    - D. The right of a consumer to obtain a credit score from a consumer reporting agency and a description of how to obtain a credit score;
    - E. The method by which a consumer can contact, and obtain a free consumer report from, a nationwide consumer reporting agency; and



- F. The method by which a consumer can contact, and obtain a consumer report from, a nationwide specialty consumer reporting agency;
- b. In the case of a nationwide consumer reporting agency, a toll-free telephone number for the entity at which personnel are accessible to consumers during normal business hours;
- c. A list of all federal agencies responsible for enforcing the FCRA (with addresses and phone numbers), in a form that will assist the consumer in selecting the appropriate agency;
- d. A statement that the consumer may have additional rights under state law and that the consumer may wish to contact a state or local consumer protection agency or a state attorney general (or the equivalent thereof) to learn of those rights; and
- e. A statement that a consumer reporting agency is not required to remove accurate derogatory information from a consumer's file, unless the information is outdated under Section 605 (15 U.S.C. 1681c) or cannot be verified. (Section 609(c)(1)-(2); 15 U.S.C. 1681g(c)(1)-(2); 12 CFR Part 1022, Appendix K).

[Click&type]

3. **Information to Be Provided in Response to File Requests.** Determine whether the entity clearly and accurately discloses the following to consumers upon request:
- a. All information in the consumer's file at the time of the request, except—
    - i. The entity must not disclose the first five digits of the consumer's Social Security number (or similar identification number) if the consumer requests (after providing appropriate proof of identity) that they be truncated (as explained in step 1b above); and
    - ii. The entity need not disclose any information concerning credit scores or any other risk scores or predictors relating to the consumer (except under the circumstances described in step 4 below).
  - b. The sources of the information, except for sources acquired and used solely in preparing an investigative consumer report. (For disclosures required with respect to investigative consumer reports, see step 19 of Module 8.)
  - c. The name or trade name written in full (and, if requested by the consumer, the address and telephone number) of each person that procured a consumer report (including all end-users, but not including certain federal government users for purposes related to classified information in national security investigations):
    - i. For employment purposes, during the two-year period preceding the date of the request; or
    - ii. For any other purpose, during the one-year period preceding the date of the request.

- d. The dates, original payees, and amounts of any checks that:
  - i. Are included in the file at the time of the disclosure and
  - ii. Form the basis for any adverse characterization of the consumer.
- e. A record of all inquiries received by the entity during the 1-year period preceding the request that identified the consumer in connection with a credit or insurance transaction that was not initiated by the consumer.
- f. If the consumer requests a credit file and not a credit score, a statement that the consumer may request and obtain a credit score. (Section 609(a); 15 U.S.C. 1681g(a)).

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**4. Information to Be Provided in Response to Credit Score Requests.**

- a. Determine whether the entity:
  - i. Distributes any scores that are used in connection with residential real property loans or
  - ii. Develops any scores that assist credit providers in understanding a consumer’s general credit behavior and predicting the consumer’s future credit behavior. (Section 609(f)(4); 15 U.S.C. 1681g(f)(4)).

If the answers to (i) and (ii) above are both “no,” skip to step 5 below.

- b. Assess the entity’s handling of consumer requests for credit scores. Refer to the Glossary and step 17 of Module 1 for the definition of “credit score.” In evaluating the entity’s handling of consumer requests for credit scores, consider:
  - i. Whether the entity provides the following information when a consumer requests a credit score:
    - A. A statement indicating that the information and credit scoring model may be different than the credit score that may be used by the lender and
    - B. A notice that includes:
      - (1) The current credit score of the consumer or the most recent credit score of the consumer that was previously calculated by the entity for a purpose related to the extension of credit;
      - (2) The range of possible credit scores under the model used;
      - (3) All of the key factors (as defined in the Glossary) that adversely affected the credit score of the consumer in the model used (not to exceed four factors,

except that if the number of inquiries is a key factor it must be included without regard to the numerical limit);

- (4) The date on which the credit score was created; and
- (5) The name of the source that provided the credit score or credit file upon which the credit score was created. (Section 609(f)(1), (f)(2)(B), (f)(7), (f)(9); 15 U.S.C. 1681g(f)(1), (f)(2)(B), (f)(7), (f)(9)).

- ii. Whether the entity provides a credit score that:
  - A. Is derived from a credit scoring model that the entity distributes widely to users in connection with residential real property loans or
  - B. Should assist the consumer in understanding the credit scoring assessment of the consumer's credit behavior and predictions about the consumer's future credit behavior. (Section 609(f)(7); 15 U.S.C. 1681g(f)(7)).

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5. **Explaining File and Score Disclosures.** Evaluate whether the entity provides trained personnel to explain information in the disclosures to consumers described above. (Section 610(c); 15 U.S.C. 1681h(c)).

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6. **Contact Information for Developer of Score or Methodology.** When a consumer requests a credit score that the entity distributes but did not develop or modify, assess whether the entity provides the consumer with the name, address, and website for contacting the person or entity that developed the score or developed the methodology for the score. (Section 609(f)(5); 15 U.S.C. 1681g(f)(5)).

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7. **Form of Disclosures.** Determine whether the entity:
- a. Makes the disclosures described in steps 2, 3, 4, and 6 above in writing, unless the consumer authorizes another form (Section 610(a)(2), (b); 15 U.S.C. 1681h(a)(2), (b)) and
  - b. Allows a consumer obtaining a disclosure described above to be accompanied by one other person of his or her choosing who furnishes reasonable identification (Section 610(d); 15 U.S.C. 1681h(d)).

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8. **Free Annual Reports.** The FCRA requires nationwide consumer reporting agencies and nationwide specialty consumer reporting agencies to provide free annual reports if they have been in continuous operation for at least a year. Nationwide consumer reporting agencies

must jointly operate a “centralized source” that consumers can use to obtain their free reports. Each nationwide specialty consumer reporting agency must make free reports available through a “streamlined process.”

- a. **Who must provide free annual reports.** Determine if the entity has an obligation to provide free annual reports in response to consumer requests by assessing whether:
  - i. It has been furnishing consumer reports to third parties on a continuing basis with respect to consumers residing nationwide for the last 12 months and
  - ii. It is a nationwide consumer reporting agency or a nationwide specialty consumer reporting agency (as determined in steps 2 and 4 of Module 1).

If the answer to (i) or (ii) above is no, skip to step 9 below regarding free disclosures after adverse actions. (Section 612(a)(1)(A), (a)(4); 15 U.S.C. 1681j(a)(1)(A), (a)(4)).

- b. **Basic compliance.** Determine whether the entity provides all of the disclosures described in steps 2 and 3 above without charge to the consumer upon a consumer’s request once during any 12-month period. For nationwide consumer reporting agencies, this obligation applies only to requests made through the centralized source. (Section 612(a)(1)(A)-(B); 15 U.S.C. 1681j(a)(1)(A)-(B)).
- c. **Timeliness.** Assess whether the entity provides free annual reports within the statutory timeframe, which is within 15 days after the date the request is received. (Section 612(a)(2); 15 U.S.C. 1681j(a)(2)).
- d. **Special requirements for nationwide consumer reporting agencies.** If the entity is a nationwide consumer reporting agency, assess whether it meets the following requirements in addition to those described in (b) and (c) above:
  - i. **Ease of access.** Determine whether the entity through the centralized source does the following when consumers seek information regarding their files with the entity:
    - A. Makes available a standardized form for consumers to use when requesting an annual file disclosure request by mail or through the website;
    - B. Provides information through the centralized source website and telephone number regarding how to make a request through the website, by a toll-free telephone number, and by a single mail address;
    - C. Provides clear and easily understandable information and instructions, including:
      - (1) Providing information on the progress of the consumer’s request;
      - (2) Providing access on the website to a “help” or “frequently asked questions” screen, which includes specific information that consumers might reasonably need to request file disclosures, answers to questions that consumers might

reasonably ask, and instructions on how to file a complaint with the centralized source and the CFPB;

- (3) If a consumer cannot be properly identified, notifying the consumer and providing directions on how to complete the request, including what additional information or documentation will be required to complete the request, and how to submit such information; and
  - (4) A statement indicating that the consumer has reached the website or telephone number for ordering free annual credit reports as required by federal law. (12 CFR 1022.136(a)-(b)).
- ii. **Collection of personally identifiable information.** Determine whether the entity collects only as much personally identifiable information through the centralized source as is reasonably necessary to properly identify the consumer and to process the transaction(s) requested by the consumer. (12 CFR 1022.136(b)(2)(ii)).
- iii. **Procedures to anticipate and respond to volume of consumers who request consumer reports from the centralized source.** Determine whether the entity, in conjunction with the other nationwide consumer reporting agencies, has implemented reasonable procedures to anticipate, and respond to, the volume of consumers who use the centralized source to meet the requirements of 12 CFR 1022.136(b)(2)(i), (c), & (e).
- iv. **Reports owned by an associated consumer reporting agency.** Determine whether, in response to a consumer's request (accompanied by proper identification) through the centralized source, the entity provides a file disclosure of every consumer report that the entity has the ability to provide to a third party relating to that consumer, regardless of whether the consumer report is owned by the entity or by an associated consumer reporting agency. (12 CFR 1022.136(d)).
- v. **Advertising, marketing, or establishment of accounts.** If any advertising or marketing for products or services or requests to establish accounts are done through the centralized source, determine whether:
  - A. They are delayed until after the consumer has obtained his or her annual file disclosure and
  - B. Any communications, instructions, or permitted advertising or marketing do not interfere with, detract from, contradict, or otherwise undermine the purpose of the centralized source. (12 CFR 1022.136(g)).
- vi. **Conditions.** Determine whether the centralized source requires consumers to set up an account or asks or requires consumers to agree to terms or conditions in connection with obtaining an annual file disclosure from the entity. (12 CFR 1022.136(h)).

- e. **Special requirements for nationwide specialty consumer reporting agencies.** If the entity is a nationwide specialty consumer reporting agency, assess whether it meets the following requirements in addition to those described in 8b and 8c above:
  - i. **Streamlined process.** Determine whether the entity has established a streamlined process for accepting and processing consumer requests for free annual disclosures that:
    - A. Includes a toll-free telephone number that:
      - (1) Allows consumers to request their disclosures;
      - (2) Provides clear and prominent instructions for requesting disclosures by any additional available request methods that do not interfere with, detract from, contradict, or otherwise undermine the ability of consumers to obtain annual file disclosures through the streamlined process;
      - (3) Is published in conjunction with other published numbers for the entity; and
      - (4) Is clearly and prominently posted on any website related to consumer reporting that the entity owns or maintains, along with instructions for requesting disclosures by any additional available request methods; and
    - B. Provides clear and easily understandable information and instructions to consumers, including:
      - (1) Providing information on the status of the consumer's request;
      - (2) For a website request method, providing access to a "help" or "frequently asked questions" screen, which includes more specific information on how to order file disclosures, answers to questions that consumers might reasonably ask, and instructions on how to file a complaint with the entity and the CFPB; and
      - (3) If a consumer cannot be properly identified, providing notice of that fact and directions on how to complete the request, including what additional information or documentation is required and how to submit it. (12 CFR 1022.137(a)).
  - ii. **Collection of personal information.** Determine whether the entity collects only as much personal information as is reasonably necessary to properly identify the consumer. (12 CFR 1022.137(a)(2)(ii)).
  - iii. **Anticipating and responding to volume of consumers.** Determine whether the entity has implemented reasonable procedures to anticipate, and respond to, the volume of consumers who will use the streamlined process to meet the requirements of 12 CFR 1022.137(a)(2)(i), (b), & (c).

- iv. **Requests received through other methods.** Determine whether the entity accepts consumer requests for annual file disclosures from consumers who use methods other than the streamlined process or instructs such consumers on how to use the streamlined process. (12 CFR 1022.137(e)).
  
- f. **Handling of personally identifiable information.** Determine whether the entity (or the centralized source) uses or discloses any personally identifiable information collected from a consumer because of the consumer’s request for an annual or other disclosure required by the FCRA from the entity that the consumer made through the centralized source or the streamlined process, for any reason other than the following:
  - i. To provide the FCRA disclosure requested by the consumer;
  - ii. To process a transaction requested by the consumer at the same time as the disclosure request;
  - iii. To comply with applicable legal requirements; or
  - iv. To update personally identifiable information already maintained by the entity for the purpose of providing consumer reports, provided that the entity uses and discloses the updated personally identifiable information subject to the same legal restrictions that would apply to the information that is updated or replaced. (12 CFR 1022.136(f), 1022.137(d)).

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9. **Free Disclosures After Adverse Action.** Determine whether the entity complies with its obligation to provide a statement of rights and make the file disclosure described in steps 2 and 3 above without charge to any consumer about whom it maintains a file if the consumer makes a request within 60 days after receiving either:
- a. An adverse action notice or
  - b. A notification from a debt collection agency affiliated with the entity stating that the consumer’s credit rating may be or has been adversely affected. (Section 612(b); 15 U.S.C. 1681j(b)).

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10. **Free Disclosures in Connection With Fraud Alerts.** If the entity is a nationwide consumer reporting agency and inserts a fraud alert in the consumer’s file at the request of the consumer or the consumer’s representative, determine whether it:
- a. Discloses to the consumer that the consumer may request:
    - i. A free file disclosure (in the case of an initial fraud alert) or

- ii. Two free file disclosures in the 12-month period beginning on the date of the fraud alert (in the case of an extended fraud alert); and
- b. Provides all disclosures described in steps 2 and 3 above without charge within three business days after the consumer requests the disclosure. (Section 605A(a)(2), (b)(2); 15 U.S.C. 1681c-1(a)(2), (b)(2)).

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11. **Other Free Disclosures.** Determine whether the entity makes all disclosures described in steps 2 and 3 above without charge to any consumer upon request once during any 12-month period if the consumer certifies in writing that the consumer:
- a. Is unemployed and intends to apply for employment in the 60-day period beginning on the date of the certification,
  - b. Is a recipient of public welfare assistance, or
  - c. Has reason to believe that the consumer’s file at the entity contains inaccurate information due to fraud. (Section 612(c); 15 U.S.C. 1681j(c)).

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12. **Charges for Other File Disclosures.** Determine whether any charges imposed by the entity for file disclosures not covered in steps 8 to 11 above are:
- a. Reasonable,
  - b. Not in excess of the annually adjusted maximum amount (\$11.50 as of January 2012), and
  - c. Indicated to the consumer before the disclosure is made. (Section 612(f); 15 U.S.C. 1681j(f)).

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13. **Charges for Credit Score Disclosures.** Determine in consultation with Headquarters whether the fees charged by the entity for credit score disclosures are reasonable and fair. (Section 609(f)(8); 15 U.S.C. 1681g(f)(8)).

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14. **“Free” Disclosures in Exchange for Other Purchases.**
- a. Determine whether the entity offers any file disclosures prepared by or obtained from, directly or indirectly, a nationwide consumer reporting agency that are represented, either expressly or by implication, to be available to the consumer at no cost if the consumer



purchases a product or service or agrees to purchase a product or service subject to cancellation.

- b. If so, determine in consultation with Headquarters whether all such offers prominently include the disclosures required by 12 CFR 1022.138(b), as applicable, and comply with the general requirements of 12 CFR 1022.138(a)(3)(i)-(vi). Advertising issues are also addressed in Module 9.

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**Module 6 - Consumer Inquiries, Complaints, and Disputes  
and the Reinvestigation Process**

This module addresses consumer inquiries, complaints, and disputes, as well as the investigation procedures the FCRA requires a consumer reporting agency to follow if a consumer disputes the completeness or accuracy of any item of information contained in his or her file. Compliance management is addressed in Module 1 and in the compliance management review section of the examination manual, and consumer file disclosure requests are discussed in detail in Module 5.

**GENERAL PROCESSES**

**1. Channels for Consumers to Contact the Entity.**

- a. Identify all channels the entity makes available for consumers to submit inquiries, complaints, and disputes, including telephone, physical locations, addresses for written submissions, websites, email addresses, and other Internet-based channels.
- b. Assess the effectiveness of each of these channels, including ease of access for consumers, wait times, and company responsiveness. Consider the limits, if any, that each channel places on the amount or type of information or documentation that consumers can submit in support of their dispute.

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- 2. Toll-Free Number for Nationwide Consumer Reporting Agencies.** If the entity is a nationwide consumer reporting agency, determine whether it has established a toll-free telephone number at which personnel are accessible to consumers during normal business hours. Assess the ease of accessing a live person, including hold times and call abandonment rates. (Section 609(c)(2)(B); 15 U.S.C. 1681g(c)(2)(B)).

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- 3. Responsiveness and Training of Personnel.** Assess the responsiveness and training of company personnel who handle consumer inquiries, complaints, and disputes. In doing so:
- a. Determine if staffing levels are sufficient for the volume of inquiries, complaints, and disputes. Assess whether assumptions used for staffing determinations are supported by analysis. (For procedures related to staffing levels for the centralized source and streamlined processes, see also steps 8d and 8e of Module 5).
  - b. Consider response times and other performance metrics used by the entity.
  - c. Assess the level of training provided or required for all staff that handle consumer inquiries, complaints, and disputes. (For procedures related to training of personnel who explain file disclosures, see step 5 of Module 5.)

## 4. Systems and Procedures Review.

- a. Evaluate the systems, procedures, and policies used by the entity for capturing, logging, categorizing, tracking, handling, investigating, and resolving consumer inquiries, disputes, and complaints. Assess whether these systems and procedures are adequate to ensure compliance with the requirements identified in steps 5-25 below. Include in this review any systems and procedures used to communicate information to and from furnishers, users, and other consumer reporting agencies.
- b. Assess how the systems and procedures identify and handle:
  - i. Patterns of complaints or disputes that suggest systematic problems and
  - ii. Repeated complaints or disputes by the same consumer.

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## 5. **Handling of CFPB Complaints.** If the entity is a nationwide consumer reporting agency, assess the following with respect to complaints it receives from the CFPB:

- a. Whether the entity reviews each such complaint to determine whether its legal obligations under the FCRA have been met (including any obligation imposed by an applicable court or administrative order);
- b. Whether it provides reports to the CFPB regarding the determinations of and actions taken in connection with its review of such complaints; and
- c. Whether it maintains, for a reasonable time period, records regarding the disposition of each such complaint. (Section 611(e)(3); 15 U.S.C. 1681i(e)(3)).

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## **DISPUTES AND THE REINVESTIGATION PROCESS**

Steps 6 to 21 below apply to consumer reporting agencies except those that operate only as resellers (as defined in the Glossary and step 5 of Module 1). If the entity operates only as a reseller, skip to steps 22 to 25 below.

6. **Reasonable Reinvestigation.** Determine whether the entity conducts a reasonable reinvestigation, free of charge, when a consumer notifies the entity (directly or through a reseller) that the consumer disputes the completeness or accuracy of any item of information contained in the consumer's file at the entity. (Section 611(a)(1); 15 U.S.C. 1681i(a)(1)).

[Click&type]

7. **Termination of Frivolous or Irrelevant Reinvestigations.** Assess the circumstances under which the entity declines to investigate a dispute on the grounds that it is frivolous or irrelevant. Determine:
- a. Whether the entity reasonably determines before terminating such a reinvestigation that the dispute by the consumer is frivolous or irrelevant (such as if a consumer fails to provide sufficient information to investigate the disputed information) and
  - b. Whether the entity provides notice to the consumer within five business days after determining that a dispute is frivolous or irrelevant, by mail or other means authorized by the consumer, that:
    - i. Includes the reasons for the determination and
    - ii. Identifies any information required to investigate the disputed information (the entity may identify this information by using a standardized form describing the general nature of such information). (Section 611(a)(3); 15 U.S.C. 1681i(a)(3)).

[Click&type]

8. **Review of All Relevant Information.** Determine whether in conducting its reinvestigations the entity reviews and considers all relevant information submitted by the consumer within 30 days after receiving the dispute from the consumer or reseller. (Section 611(a)(1)(A), (a)(4); 15 U.S.C. 1681i(a)(1)(A), (a)(4)). Review how the entity handles and uses attachments and other supplementary materials and text provided by the consumer in disputes submitted by mail, Internet, telephone, or other means.

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9. **Timely and Complete Notification to Furnisher.**
- a. Determine whether within five business days after receiving notice of a dispute, the entity provides notification to the furnisher (other than in cases of “expedited dispute resolutions” described in step 19 below).
  - b. Assess whether this notification includes all relevant information regarding the dispute that the entity has received from the consumer or reseller. (Section 611(a)(2)(A); 15 U.S.C. 1681i(a)(2)(A)). In making this assessment:
    - i. Consider disputes that come in through all of the different channels that consumers can use to lodge disputes.
    - ii. Assess how information from attachments submitted by consumers is handled.

[Click&type]

10. **Update to Furnisher if Additional Information Received.** If the entity receives additional information from the consumer or reseller after it provides the initial notification to the furnisher, but within thirty days after receiving the dispute, determine whether the entity provides such information to the furnisher (other than in cases of “expedited dispute resolutions” described in step 19 below). (Section 611(a)(2)(B); 15 U.S.C. 1681i(a)(2)(B)).

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11. **Time Limits for Completing Reinvestigation.** For disputes that are not terminated as frivolous or irrelevant (see step 7 above), determine whether the entity completes the reinvestigation and records the current status or deletes the information before the applicable statutory deadline. The deadline is 30 days after the entity receives the notice from the consumer or reseller, except under the following two circumstances:

- a. The time can be extended up to 15 additional days if:
  - i. The entity receives information from the consumer during the initial 30-day period that is relevant to the reinvestigation and
  - ii. The disputed information is not found to be inaccurate or incomplete or unverifiable in the initial 30-day period (Section 611(a)(1); 15 U.S.C. 1681i(a)(1)); or
- b. The deadline is 45 days after receipt of the notice from the consumer or reseller if the dispute was sent after the consumer received an annual free report (Section 612(a)(3); 15 U.S.C. 1681j(a)(3)).

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12. **Inaccurate, Incomplete, or Unverifiable Information.** If information disputed by a consumer is found to be inaccurate, incomplete, or cannot be verified, determine if the entity:

- a. Promptly deletes the information from the consumer’s file, or modifies it as appropriate;
- b. Promptly notifies the furnisher that the information has been modified or deleted from the consumer’s file; and
- c. Ensures that the information is not reinserted into the consumer’s file unless the furnisher certifies that the information is complete and accurate. (Section 611(a)(5)(A), (a)(5)(B)(i); 15 U.S.C. 1681i(a)(5)(A), (a)(5)(B)(i)).

[Click&type]

13. **Handling of Disputes Related to Credit Scores Developed by Others.** If the entity declines to process disputes relating to credit scores that were developed by another person or entity, confirm:

- a. That the entity did not itself develop or modify the scores and

- b. That the entity provides the consumer with the name and address and website for contacting the person or entity who developed the score or developed the methodology of the score. (Section 609(f)(5); 15 U.S.C. 1681g(f)(5)).

[Click&type]

- 14. Reinsertion of Deleted Information.** If information deleted from a consumer’s file through a reinvestigation is later reinserted in the file, determine whether the entity provides the consumer the following in writing within five business days of the reinsertion:
- a. A statement that the disputed information has been reinserted;
  - b. The business name and address (and telephone number, if reasonably available) of any furnisher contacted by the entity or that contacted the entity in connection with the reinsertion of such information; and
  - c. A notice that the consumer has the right to add a statement to the consumer’s file disputing the accuracy or completeness of the disputed information. (Section 611(a)(5)(B); 15 U.S.C. 1681i(a)(5)(B)).

[Click&type]

- 15. Procedures to Prevent Reappearance of Deleted Information.** Assess whether the entity maintains reasonable procedures designed to prevent the reappearance in a consumer’s file, and in consumer reports, of information that is deleted based on a reinvestigation (other than information that is reinserted after the furnisher certifies that it is complete and accurate). (Section 611(a)(5)(C); 15 U.S.C. 1681i(a)(5)(C)). See also step 2a of Module 3, which addresses whether the entity actually has included previously deleted information in consumer reports.

[Click&type]

- 16. Automated System for Furnishers to Report Reinvestigation Results.** If the entity is a nationwide consumer reporting agency, determine if it provides furnishers access to an automated system that allows them to report the results of a reinvestigation that finds incomplete or inaccurate information to other nationwide consumer reporting agencies. (Section 611(a)(5)(D); 15 U.S.C. 1681i(a)(5)(D)).

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- 17. Notice to Consumer of Results of Reinvestigation.** Determine if the entity provides written notice to a consumer (or the reseller, if the dispute was provided through a reseller) of the results of a reinvestigation, by mail or by any other means authorized by the consumer, within five business days after the completion of the reinvestigation (except in the case of “expedited resolutions” described in step 19 below). Determine whether, as part of this notice or in addition to this notice, the entity provides the following to the consumer in writing within the five-day period:

- a. A statement that the reinvestigation is completed;
- b. A consumer report based upon the consumer’s file as revised;
- c. A notice that, if requested by the consumer, a description of the procedure used to determine the information’s accuracy and completeness will be provided by the entity, including the business name and address of any furnisher contacted in connection with such information (with telephone number, if reasonably available);
- d. A notice that the consumer has the right to add a statement to the consumer's file disputing the information’s accuracy or completeness; and
- e. A notice that the consumer has the right to request that the entity furnish notifications regarding deletions or statements of dispute to certain users who have received reports containing the information. (Section 611(a)(6); 15 U.S.C. 1681i(a)(6)).

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**18. Description of Procedures Used.** If a consumer requests a description of the procedures used, determine whether the entity provides such a description within 15 days after receiving the request (except in cases of “expedited dispute resolutions” described in step 19 below). (Section 611(a)(7); 15 U.S.C. 1681i(a)(7)).

[Click&type]

**19. Expedited Dispute Resolutions.**

- a. Determine whether the entity engages in any “expedited dispute resolutions” in which it does not provide timely and complete notification or updates to the furnisher, does not provide written notice to the consumer of the results of the reinvestigation, and/or does not make available a description of the procedures used upon consumer request (per steps 9, 10, 17, and 18 above).
- b. If so, determine whether for each of these “expedited dispute resolutions,” the entity:
  - i. Deletes the disputed information within three business days after the date on which the entity receives notice of the dispute from the consumer,
  - ii. Provides prompt notice of the deletion to the consumer (or to the reseller, if the complaint came through a reseller) by telephone,
  - iii. Provides written confirmation of the deletion and a revised consumer report, within five business days after making the deletion, and
  - iv. Includes in the telephone notice described in 19bii above or in a written notice accompanying the confirmation and copy of the report described in 19biii above a statement of the consumer’s right to request that the entity notify certain prior users

under Section 611(d) (15 U.S.C. 1681i(d)). (Section 611(a)(8); 15 U.S.C. 1681i(a)(8)).

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**20. Statements of Dispute.**

- a. If the reinvestigation does not resolve the dispute, determine whether the entity allows the consumer to file a brief statement setting forth the nature of the dispute. (Section 611(b); 15 U.S.C. 1681i(b)).
- b. If the entity limits the length of such statements of dispute, determine whether:
  - i. The entity allows the consumer up to at least 100 words and
  - ii. The entity provides the consumer with assistance in writing a clear summary of the dispute. (Section 611(b); 15 U.S.C. 1681i(b)).
- c. In instances where consumers file statements of dispute:
  - i. Determine whether the entity:
    - A. Clearly notes in any subsequent reports containing the information in question that it is disputed by the consumer and
    - B. Provides either the consumer’s statement or a codification or summary thereof that is clear and accurate.
  - ii. If not, assess whether there are reasonable grounds for the entity to believe that the dispute is frivolous or irrelevant. (Section 611(c); 15 U.S.C. 1681i(c)).

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**21. Notification to Users of Deletions or Disputes.** Review whether the entity notifies users upon consumer request of (1) any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or (2) any notation as to disputed information. Such notification must be provided to any person specifically designated by the consumer who has received a consumer report containing the deleted or disputed information:

- a. For employment purposes within the previous two years or
- b. For any other purpose within the previous six months. (Section 611(d); 15 U.S.C. 1681i(d)).

**RESELLER RESPONSIBILITIES REGARDING DISPUTES**

The following procedures should be used to review a reseller’s conduct when the reseller receives consumer disputes concerning the completeness or accuracy of information contained in a consumer report produced by the reseller.



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22. **Assessment by Reseller.** Determine whether the reseller determines whether the item of information is incomplete or inaccurate as a result of an act or omission of the reseller within five business days of receiving notice of a dispute from a consumer and without charge to the consumer. (Section 611(f)(2)(A); 15 U.S.C. 1681i(f)(2)(A)).

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23. **Timely Correction of Reseller Errors.** When the reseller determines that disputed information is incomplete or inaccurate as a result of its own act or omission, determine whether the reseller corrects the information in the consumer report or deletes it within 20 days after receiving the notice without charge to the consumer. (Section 611(f)(2)(B)(i); 15 U.S.C. 1681i(f)(2)(B)(i)).

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24. **Notice to Consumer Reporting Agency That Produced Report.**

- a. For instances where the reseller determines that the item of information is not incomplete or inaccurate as a result of its own acts or omissions, determine whether the reseller conveys notice of the dispute to each consumer reporting agency that provided the reseller with the information at issue without charge to the consumer.
- b. If so, determine:
  - i. Whether the reseller includes with the notice all relevant information provided by the consumer and
  - ii. Whether the reseller uses an address or a notification mechanism specified by the consumer reporting agency for such notices. (Section 611(f)(2)(B); 15 U.S.C. 1681i(f)(2)(B)).

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25. **Conveyance of Reinvestigation Notices to Consumers.** Determine whether the reseller immediately reconveys reinvestigation notices that it receives from the consumer reporting agency to the consumer, including any notice of a deletion by telephone. (Section 611(f)(3); 15 U.S.C. 1681i(f)(3)).

### **DISPUTE PROCESS FOR VETERAN'S MEDICAL DEBT**

The following procedures should be used to review the entity's conduct when the entity receives a veteran's medical debt dispute.

26. **Notice Submitted by Veteran.** Determine whether the consumer submitted a valid veteran's medical debt dispute to the consumer reporting agency or reseller. The veteran may submit the following documentation:

- a. A notice from the Department of Veteran Affairs stating the Department has assumed liability for part, or all, of a veteran’s medical debt; or
- b. Proof of liability of the Department of Veterans Affairs for payment of the debt; or
- c. Documentation that the Department of Veterans Affairs is in the process of making payments for authorized hospital care, medical services, or extended care services rendered. (Section 611(g); 15 U.S.C. 1681i(g)).

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27. **Deletion of Information from File.** Determine whether the entity, after receiving any of the documentation listed in step 26, deleted all information relating to the veteran’s medical debt from the file and notified the furnisher and veteran of the deletion. (Section 611(g)(3); 15 U.S.C. 1681i(g)(3)).

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## **Module 7 - Consumer Alerts and Identity Theft Provisions**

This Module addresses a number of requirements that the FCRA imposes on consumer reporting agencies to address identity theft and to protect active duty military consumers, including security freezes, fraud and active duty alerts and blocking of reporting of information that stems from identity theft. In addition to the procedures set out below, other modules also touch on identity protection issues – including, for example, the requirement that consumer reporting agencies notify parties requesting reports regarding address discrepancies (discussed in step 9 of Module 4).

### **POLICIES AND PROCEDURES**

1. Review and assess the entity’s general policies and procedures governing how the entity responds when consumers assert that they are or have been a victim of fraud or identity theft. For policies and procedures specifically related to alerts, see step 5 below.

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### **FRAUD AND ACTIVE DUTY ALERTS**

2. **Duty to Provide Contact Information.** If the entity is not a nationwide consumer reporting agency, determine whether it explains to consumers who suspect they have been or are about to be a victim of fraud or a related crime (including identity theft) how to contact the CFPB and the nationwide consumer reporting agencies to obtain more detailed information and request alerts. (Section 605A(g); 15 U.S.C. 1681c-1(g)).

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3. **Reseller Responsibility to Reconvey Alerts.** If the entity acts as a reseller (see step 5 of Module 1), determine whether it complies with its statutory obligation to include in its reports any fraud alert or active duty alert placed in the file of a consumer by another consumer reporting agency. (Section 605A(f); 15 U.S.C. 1681c-1(f)).

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4. **Applicability of Requirement to Include Alerts.** The procedures in steps 5 to 26 below apply only to nationwide consumer reporting agencies. If the entity is not a nationwide consumer reporting agency, skip to step 27 below.

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5. **Specific Policies and Procedures Regarding Alerts.** Determine whether the nationwide consumer reporting agency has established policies and procedures relating to fraud alerts and active duty alerts, including:
  - a. Procedures that inform consumers of the availability of such alerts and

- b. Procedures that allow consumers to request initial, extended, or active duty alerts in a simple and easy manner, including by telephone. (Section 605A(d); 15 U.S.C. 1681c-1(d)).

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6. **Requirements for Alerts.** Determine whether the nationwide consumer reporting agency includes an initial fraud alert, extended fraud alert, or active duty alert in a consumer’s file when the entity:
- a. Maintains a file on the consumer,
  - b. Has received appropriate proof of the requester’s identity (see step 1b of Module 5), and
  - c. Receives from the consumer (or an individual acting on behalf of or as a personal representative of a consumer):
    - i. *In the case of an initial fraud alert*, a direct request that asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft;
    - ii. *In the case of an extended fraud alert*, a direct request and an identity theft report (as defined in the Glossary); or
    - iii. *In the case of an active duty alert*, a direct request from an active duty military consumer (or an individual acting on behalf of or as a personal representative of an active duty military consumer). (Section 605A(a)(1), (b)(1), (c); 15 U.S.C. 1681c-1(a)(1), (b)(1), (c)). An active duty military consumer means a consumer in military service who:
      - A. Is on active duty<sup>6</sup> or is a reservist performing duty under a call or order to active duty under a provision of law referred to in 10 U.S.C. 101(a)(13), and
      - B. Is assigned to service away from the usual duty station of the consumer. (Section 603(q)(1); 15 U.S.C. 1681(q)(1)).

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7. **Duration of Alerts.** Determine whether the nationwide consumer reporting agency includes any fraud or active duty alert in the consumer’s file and provides the alert along with any credit score generated in using that file for:
- a. Not less than 1 year from the request date for initial fraud alerts,
  - b. 7 years from the request date for extended fraud alerts, and

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<sup>6</sup> The term “active duty” here means full-time duty in the active military service of the United States. This includes full-time training duty, annual training duty, and attendance while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. (10 U.S.C. 101(d)(1)).

- c. 12 months from the request date for active duty alerts,

unless the consumer or his or her representative requests that the alert be removed earlier and provides appropriate proof of the requester’s identity (see step 1b of Module 5). (Section 605A(a)(1)(A), (b)(1)(A), (c)(1); 15 U.S.C. 1681c-1(a)(1)(A), (b)(1)(A), (c)(1); 12 CFR 1022.121).

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**8. Referrals to and From Other Nationwide Consumer Reporting Agencies of Alerts.**

- a. Determine whether the nationwide consumer reporting agency refers information regarding fraud alerts, extended fraud alerts, and active duty alerts to each of the other nationwide consumer reporting agencies and has appropriate referral procedures in place. (Section 605A(a)(1)(B), (b)(1)(C), (c)(3); 15 U.S.C. 1681c-1(a)(1)(B), (b)(1)(C), (c)(3); Section 621(f); 15 U.S.C. 1681s(f)).
- b. When the nationwide consumer reporting agency receives referrals of fraud alerts and active duty alerts from other nationwide consumer reporting agencies, determine whether it responds in the same way that it would if it received the request directly from the consumer. (Section 605A(e); 15 U.S.C. 1681c-1(e)).

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- 9. Free Disclosures in Connection with Fraud Alerts.** See step 10 of Module 5 for procedures regarding nationwide consumer reporting agencies’ obligation to provide upon request a free file disclosure in connection with an initial fraud alert or two free file disclosures in connection with an extended fraud alert and to disclose the consumer’s right to such disclosures. (Section 605A(a)(2), (b)(2); 15 U.S.C. 1681c-1(a)(2), (b)(2)).

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**10. Exclusion From Prescreening During Extended Fraud Alerts and Active Duty Alerts.**

See steps 9 and 10 of Module 8 for procedures relating to the requirement that nationwide consumer reporting agencies exclude consumers with extended fraud alerts and active duty alerts from prescreening lists for five or two years respectively, unless the consumer asks to be included. (Section 605A(b)(1)(B), (c)-(d); 15 U.S.C. 1681c-1(b)(1)(B), (c)-(d)).

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**11. Contents of Alerts.** Determine whether the entity’s fraud alerts and active duty alerts:

- a. Notify all prospective consumer report users that the consumer may be the victim of fraud, including identity theft, or is an active duty military consumer, as applicable, and
- b. Are presented in a manner that facilitates clear and conspicuous view of such notification by any person requesting a consumer report about the consumer. (Section 603(q)(2); 15 U.S.C. 1681a(q)(2)).

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**12. Notification in Alerts Regarding Credit Extensions.**

- a. Determine whether each initial fraud alert, extended fraud alert, and active duty alert included in a file by the entity notifies prospective users that the consumer does not authorize establishment of any new credit plan or extension of credit in the consumer's name (other than under an open-end credit plan), or issuance of an additional card on an existing credit account requested by the consumer, or any increase in credit limit on an existing credit account requested by the consumer, except under specific circumstances permitted by Section 605A(h); 15 U.S.C. 1681c-1(h).
- b. In the case of extended fraud alerts, determine whether each alert included by the entity also provides a telephone number or other reasonable contact method designated by the consumer. (Section 605A(h); 15 U.S.C. 1681c-1(h)).

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**SECURITY FREEZES**

**13. Security Freeze.** Verify that the consumer reporting agency (a nationwide CRA defined in Section 603(p)) accepts security freeze requests through alternate channel(s), in addition to its webpage. (Section 605A(i)(6)(A)(vi); 15 U.S.C. 1681c-1(i)(6)(A)(vi)).

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**14. Placement of a Security Freeze.** For consumers who request a security freeze, determine whether the nationwide consumer reporting agency:

- a. Placed the freeze free of charge.
- b. Placed the freeze only upon receipt of proper identification.
- c. Placed the freeze timely. For toll-free telephone or electronic requests, the consumer reporting agency must place the freeze no later than 1 business day after receiving the request. For requests by mail, the consumer reporting agency must place the freeze no later than 3 business days after receiving the request. (Section 605A(i)(2)(A); 15 U.S.C. 1681c-1(i)(2)(A)).
- d. Sent confirmation of the freeze to the consumer, no later than 5 business days after placing the freeze. The confirmation must inform the consumer of:
  - i. The process to remove the freeze, including a mechanism to authenticate the consumers; and
  - ii. The consumer's rights described in Section 615(d)(1)(D). (Section 605A(i)(2)(B); 15 U.S.C. 1681c-1(i)(2)(B)).

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15. **Removal of a Security Freeze.** A nationwide consumer reporting agency may only remove a security freeze upon the direct request of the consumer or upon the determination the freeze was placed due to a material misrepresentation of fact by the consumer. (Section 605A(i)(3); 15 U.S.C. 1681c-1(i)(3)).
- a. For removals due to material misrepresentations, determine:
    - i. How the consumer reporting agency concluded that the consumer made a material misrepresentation.
    - ii. Whether the consumer reporting agency notified the consumer in writing prior to removing the security freeze.
  - b. For removals upon request of the consumer, determine whether the consumer reporting agency:
    - i. Removed the freeze free of charge.
    - ii. Removed the freeze timely. For toll-free telephone or electronic requests, the consumer reporting agency must remove the freeze no later than 1 hour after receiving the request. For requests by mail, the consumer reporting agency must remove the freeze no later than 3 business days after receiving the request.

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16. **Temporary Security Freeze Removal.** For a temporary removal of a security freeze requested by a consumer, determine whether the nationwide consumer reporting agency:
- a. Removed the freeze for the period of time specified by the consumer.
  - b. Removed the freeze timely. For toll-free telephone or electronic requests, the consumer reporting agency must remove the freeze no later than 1 hour after receiving the request. For requests by mail, the consumer reporting agency must remove the freeze no later than 3 business days after receiving the request. (Section 605A(i)(3)(E); 15 U.S.C. 1681c-1(i)(3)(E)).

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17. **Exceptions.** A security freeze will not apply to a consumer reporting agency that provides a consumer report for any of the instances listed in Section 605A(i)(4). Determine whether the consumer reporting agency:
- a. Provided a consumer report for any of the allowable exceptions;
  - b. Failed to provide a consumer report due to a security freeze despite a valid exception; or

- c. Provided a consumer report for a consumer with a valid security freeze in place and an exception did not apply.

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18. **Notice of Rights.** Whenever a consumer is required to receive notice of rights under Section 609, verify that the notice contains the language listed in Section 605A(i)(5).

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19. **Webpage.** Determine whether the nationwide consumer reporting agency established a website that:

- a. Allows a consumer to request a security freeze;
- b. Allows a consumer to request an initial fraud alert;
- c. Allows a consumer to request an extended fraud alert;
- d. Allows a consumer to request an active duty fraud alert; and
- e. Allows a consumer to opt-out of the use of information in a credit report to send the consumer a solicitation of credit or insurance, in accordance with Section 615(d).

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### **SECURITY FREEZES FOR PROTECTED CONSUMERS**

The FCRA defines “protected consumer” as an individual who is under the age of 16 at the time a freeze request is made, or an incapacitated person or a protected person for whom a guardian or conservator has been appointed. The term “protected consumer’s representative” means a person who provides to the consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer, listed in Section 605A(j)(1)(F).

20. **Placement of Security Freeze for a Protected Consumer.** When a protected consumer’s representative directly requests a security freeze for a protected consumer, determine whether the nationwide consumer reporting agency, as defined in Section 603(p):

- a. Received sufficient proof of identification, as defined under Section 605A(j)(1)(G).
- b. Received sufficient proof of authority, as defined under Section 605A(j)(1)(F).
- c. Placed the freeze free of charge.
- d. Placed the freeze timely. For toll-free telephone or electronic requests, the consumer reporting agency must place the freeze no later than 1 business day after receiving the request. For requests by mail, the consumer reporting agency must place the freeze no later than 3 business days after receiving the request. (Section 605A(j)(2)(A); 15 U.S.C. 1681c-1(j)(2)(A)).



- e. Sent confirmation of the freeze to the protected consumer’s representative, no later than 5 business days after placing the freeze, informing the representative of the process to remove the freeze, including a mechanism to authenticate the protected consumer’s representative.
- f. Created a file record for the protected consumer if one did not exist.

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**21. Prohibition on Release of Record or File of Protected Consumer.** Determine whether the consumer reporting agency provided the protected consumer’s report, any information derived from the protected consumer’s report, or any record created for the protected consumer, after a security freeze was placed. (Section 605A(j)(3); 15 U.S.C. 1681c-1(j)(3)).

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**22. Removal of a Protected Consumer Security Freeze.** A consumer reporting agency may only remove a protected consumer’s security freeze in cases listed in Section 605A(j)(4)(A).

- a. For removals made upon the request of the protected consumer’s representative, determine whether the consumer reporting agency:
  - i. Removed the freeze free of charge.
  - ii. Removed the freeze timely. For toll-free telephone or electronic requests, the consumer reporting agency must remove the freeze no later than 1 hour after receiving the request. For requests by mail, the consumer reporting agency must remove the freeze no later than 3 business days after receiving the request.
- b. For removals made upon the request of the protected consumer, if the consumer is not under 16 years old at the time of the request, determine whether the consumer reporting agency:
  - i. Removed the freeze free of charge.
  - ii. Removed the freeze timely. For toll-free telephone or electronic requests, the consumer reporting agency must remove the freeze no later than 1 hour after receiving the request. For requests by mail, the consumer reporting agency must remove the freeze no later than 3 business days after receiving the request.
- c. For removals where the security freeze was placed due to a material misrepresentation of fact by the protected consumer’s representative, determine:
  - i. How the consumer reporting agency concluded that the protected consumer’s representative made a material misrepresentation.
  - ii. Whether the consumer reporting agency notified the protected consumer’s representative in writing prior to removing the security freeze.

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23. **Protected Consumer Temporary Security Freeze Removal.** For temporary removal of a protected consumer’s security freeze, the request must be made by either the protected consumer or the protected consumer’s representative, provided the protected consumer is not under 16 years old at the time of the request. Determine whether the consumer reporting agency:
- a. Removed the freeze for the period of time specified by the consumer.
  - b. Removed the freeze timely. For toll-free telephone or electronic requests, the consumer reporting agency must remove the freeze no later than 1 hour after receiving the request. For requests by mail, the consumer reporting agency must remove the freeze no later than 3 business days after receiving the request

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**ACTIVE DUTY CREDIT MONITORING**

The following procedures should be used to review an entity’s (a nationwide CRA defined in Section 603(p)) conduct to provide free electronic credit monitoring for consumers that inform the entity of their active duty military status.<sup>7</sup> (Section 605A(k); 15 U.S.C. 1681c-1(k)).

24. **Credit Monitoring.** For a consumer who informs the entity of their active duty status, determine whether the consumer reporting agency:
- a. Requested and received appropriate proof of identity, proof of the consumer’s active duty status,<sup>8</sup> and the consumer’s contact information.
  - b. Provided a free electronic monitoring service for two years after the entity verifies the consumer’s active duty status, that at a minimum, notifies a consumer of material additions or modifications to the file within 48 hours of the changes.<sup>9</sup>
    - i. The notification may be by mobile application, email, or text message. If the notification does not inform the consumer of the specific change, the notice must link to a website that provides that information.
    - ii. The notice, or the first page of the electronic credit monitoring service website, shall include a hyperlink to a summary of the consumer’s rights under the FCRA. Each file

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<sup>7</sup> The term “active duty military consumer” is defined in 15 U.S.C. 1681a(q)(1). The term also includes a member of the National Guard, as defined in 10 U.S.C. 101(c).

<sup>8</sup> A consumer’s active duty status can be verified through: a method or service approved by the Department of Defense, or a certification of active duty status approved by the NCRA.

<sup>9</sup> Material additions or modifications are defined in 16 CFR Part 609.2(l).

disclosure from the entity must also include a summary of the consumer's rights under the FCRA.

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25. **Information use and disclosure.** Determine whether the entity collected information from consumers, as a result of a request to obtain the service, and if so, used or disclosed that information for the following permitted purposes only (16 CFR 609.3(d)):
- a. To provide the free electronic credit monitoring service requested by the consumer;
  - b. To process a transaction requested by the consumer at the same time as the request for the free electronic credit monitoring service;
  - c. To comply with applicable legal requirements; or
  - d. To update information already maintained by the entity for the purpose of providing consumer reports.

[Click&type]

26. **Prohibited practices.** Determine whether the entity engaged in any of the following prohibited practices (16 CFR 609.3(e) and (f)):
- a. Advertised or marketed products or services to the consumer during the enrollment process. This includes any communications or instructions that advertise or market any products and services.
  - b. Provided communications, instructions, or advertising or marketing that interfered with, detracted from, contradicted, or undermined the purpose of providing the free electronic credit monitoring service. Examples include:
    - i. Materials that represent, expressly or implication, that an active duty consumer must purchase a paid product or service in order to receive the free electronic credit monitoring; or
    - ii. Materials that falsely represent, expressly or implication, that a product or service offered additionally to the free electronic credit monitoring service, such as identify theft insurance, is also free, or fail to clearly and prominently disclose that consumers must cancel a service within the initial free period to avoid being charged.
  - c. Required an active duty military consumer to agree to terms or conditions in connection with obtaining the free electronic credit monitoring service, other than those terms or conditions required to comply with applicable legal requirements.

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**IDENTITY THEFT STATEMENT OF RIGHTS**

The FCRA requires consumer reporting agencies under certain circumstances to provide a summary of rights of identity theft victims that contains all of the information required by the CFPB.

**27. Who Receives a Statement of Rights.** Determine if the entity provides a statement of rights to any consumer who expresses a belief to the entity that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution or other creditor. (Section 609(d)(2); 15 U.S.C. 1681g(d)(2)).

[Click&type]

**28. Content and Format of Statement of Rights.** Confirm that:

- a. The disclosures provided are substantially similar to the CFPB’s model summary in Appendix I to Regulation V, 12 CFR Part 1022, and
- b. All required information is clearly and prominently displayed. (Section 609(d); 15 U.S.C. 1681g(d); 12 CFR Part 1022, Appendix I).

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**IDENTITY THEFT BLOCKING REQUIREMENT**

Consumer reporting agencies must “block” the reporting of certain information resulting from an alleged identity theft. Special rules apply to two different types of consumer reporting agencies.

**29. Entities Subject to Different Blocking Requirements.** Check services companies and resellers have different obligations than other consumer reporting agencies when consumers request an identity theft block. Determine if the entity is:

- a. A reseller (as determined in step 5 of Module 1) or
- b. A check services company acting as such that issues authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment.

If so, skip to step 19 (for resellers) or 20 (for check services companies) below. (Section 605B(d)-(e); 15 U.S.C. 1681c-2(d)-(e)).

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**30. Blocking Requirement.** Absent the circumstances described in step 17 below, determine whether the entity blocks the reporting of consumer file information that the consumer identifies as resulting from an alleged identity theft (other than in reports provided to a federal, state, or local law enforcement agency) within four business days after the entity receives:

- a. Appropriate proof of the identity of the consumer (see step 1b of Module 5),
- b. A copy of an identity theft report,
- c. The identification of such information by the consumer, and
- d. A statement by the consumer that the information is not information relating to any transaction by the consumer. (Section 605B(a), (f); 15 U.S.C. 1681c-2(a), (f)).

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**31. Requirements If Declining to Block Information.** The FCRA allows consumer reporting agencies to decline a block request or rescind a block under limited circumstances. If the entity declines to implement an identity theft block, or rescinds any identity theft block, assess whether it:

- a. Notifies the consumer promptly, in the same manner as consumers are notified of the reinsertion of previously-deleted information and
- b. Reasonably determines that:
  - i. The information was blocked in error or a block was requested by the consumer in error;
  - ii. The information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact by the consumer relevant to the request to block; or
  - iii. The consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions. (Section 605B(c); 15 U.S.C. 1681c-2(c)).

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**32. Notification to Furnishers of Identity Theft Block.** Determine whether the entity promptly notifies the furnisher of information subject to an identity theft block request:

- a. That the information may be a result of identity theft,
- b. That an identity theft report has been filed,
- c. That a block has been requested, and
- d. Of the block's effective dates. (Section 605B(b); 15 U.S.C. 1681c-2(b)).

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**33. Reseller Obligations.** If the entity is a reseller, review how it responds when consumers request an identity theft block to determine if the reseller does the following:

- a. In instances where the reseller is not otherwise furnishing or reselling a consumer report concerning the information identified by the consumer at the time of the block request, determine if the reseller informs the consumer that the consumer may report the identity theft to the CFPB to obtain consumer information regarding identity theft.
- b. In instances where the consumer identifies to the entity information in the consumer's file that resulted from identity theft and where the entity is a reseller of the identified information, determine if the reseller:
  - i. Blocks any consumer report it maintains from subsequent use and
  - ii. Provides notice to the consumer of the file block, including the name, address, and telephone number of the consumer reporting agency from which the information was obtained. (Section 605B(d); 15 U.S.C. 1681c-2(d)).

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**34. Obligations of Check Services Company.** If the entity is a check services company, determine whether it refrains from reporting to a nationwide consumer reporting agency any information that an identity theft report identifies as resulting from identity theft beginning four business days after the entity receives:

- a. Appropriate proof of the identity of the consumer (as explained in step 1b in Module 5),
- b. A copy of an identity theft report, and
- c. The consumer's identification of such information. (Section 605B(e); 15 U.S.C. 1681c-2(e)).

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**35. Acceptance of Identity Theft Reports.** If the entity asks for additional information or documentation before accepting an identity theft report in connection with a request for an extended fraud alert or for identity theft blocking, determine whether:

- a. The entity's request is reasonable and made for the purpose of determining the validity of the alleged identity theft,
- b. The entity makes its request within 15 days after the later of the date it receives the copy of the report form or the request by the consumer for the extended fraud alert or for identity theft blocking, and
- c. The entity makes any supplemental requests for information or documentation and its final determination on the acceptance of the identity theft report by the statutory deadline, which is:
  - i. 15 days after its initial request for information or documentation or

- ii. If the entity receives any additional information or documentation on the eleventh day or later within the 15-day period, within five days after the date of receipt. (12 CFR 1022.3(i)).

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**Module 8 - Prescreening, Employment Reports, and  
Investigative Consumer Reports**

This module addresses the requirements that the FCRA imposes on consumer reporting agencies that engage in prescreening or furnish employment reports or investigative consumer reports.

**PRESCREENING**

The FCRA includes detailed requirements that must be followed when consumer reporting agencies provide consumer reports not authorized by the consumer that are used to solicit consumers to obtain credit or insurance, a process known as “prescreening.” In prescreening, a consumer reporting agency typically either edits a list of consumers developed by the requesting creditor or insurer (or its agents) or independently creates a list of consumers according to the requesting entity’s specifications.

In addition to the examination procedures listed below, step 2f of Module 3 and step 3e of Module 5 address the FCRA’s requirements that consumer reporting agencies include prescreening inquiries from the preceding year in consumer file disclosures, but not list prescreening inquiries in consumer reports issued to third parties. (Section 604(c)(3); 15 U.S.C. 1681b(c)(3); Section 609(a)(5); 15 U.S.C. 1681g(a)(5)).

1. **Whether Entity Engages in Prescreening.** Determine if the entity engages in “prescreening,” by furnishing consumer reports in connection with any credit or insurance transactions that are not initiated by the consumers (to solicit the consumers to obtain credit or insurance) and where the consumers have not authorized the entity to provide such reports (as determined in step 14 of Module 1). (Section 603(l); 15 U.S.C. 1681a(l); Section 604(c)(1); 15 U.S.C. 1681b(c)(1)). If not, skip to step 12 below.

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2. **Consumer Information Released in Prescreening.** Determine whether the entity provides any information about the consumer other than the following in connection with prescreening:
  - a. The name and address of a consumer,
  - b. An identifier that is not unique to the consumer and that is used solely for the purpose of verifying the consumer’s identity, and
  - c. Other information pertaining to the consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity. (Section 604(c)(2); 15 U.S.C. 1681b(c)(2)).

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3. **Notification System for Opt-Outs.** Determine whether the entity maintains a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the entity to notify the entity, with appropriate identification, of the consumer’s election to be excluded (“opt out”) from any list of names and addresses provided by the entity for prescreening. (Section 604(e)(5); 15 U.S.C. 1681b(e)(5)).
- a. **Affiliates.** If the entity has affiliates that engage in prescreening, determine whether they are part of the notification system and whether opt-outs are honored by all of the affiliated entities. (Section 604(e)(4)(D), (e)(5); 15 U.S.C. 1681b(e)(4)(D), (e)(5)).
  - b. **Joint notification system for nationwide consumer reporting agencies.** If the entity is a nationwide consumer reporting agency, determine whether it maintains a joint notification system with other nationwide consumer reporting agencies to accomplish the purposes described in step 3 above. (Section 604(e)(6); 15 U.S.C. 1681b(e)(6)).
  - c. **Publicity.** Assess how information about the notification system is disseminated to consumers, including whether the entity annually publishes in a publication of general circulation in the area served by the entity:
    - i. A notification that information in consumer files maintained by the entity may be used in connection with prescreening and
    - ii. The address and toll-free telephone number to use to opt out. (Section 604(e)(5); 15 U.S.C. 1681b(e)(5)).

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4. **Entity Response After System Notification.** When the entity’s notification system provides notification of a consumer’s election, determine whether the entity:
- a. Informs the consumer that the election is effective only for five years unless the consumer submits to the entity a signed notice of election form issued by the entity and
  - b. Provides a notice of election form if requested by the consumer (which must be provided within five business days after receipt of the election notification, if the request is made with the system notification). (Section 604(e)(3); 15 U.S.C. 1681b(e)(3)).

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5. **Tracking Opt-Outs.** Assess the systems and procedures that the entity uses for tracking which consumers have opted out and the effective period for each such opt-out, which must:
- a. Begin no more than five business days after the date of notification and
  - b. Continue until:

- i. The consumer notifies the entity through its notification system that the election is no longer effective or
- ii. If the consumer did not provide a signed notice of election form issued by the entity, five years and five business days after the notification. (Section 604(e)(4); 15 U.S.C. 1681b(e)(4)).

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6. **Honoring Opt-Outs.** Assess whether the entity has systems and processes in place to ensure that consumers who have opted out are not included in prescreening lists. Determine whether the entity provides any consumer reports for prescreening about consumers who have opted out (either through the notification system or by submitting a signed notice of election form issued by the entity) during the effective period of the opt-outs. (Section 604(c)(1); 15 U.S.C. 1681b(c)(1)).

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7. **Firm Offer of Credit.** Determine whether the entity has adequate procedures in place to determine whether the persons to whom it provides prescreened consumer reports are extending firm offers of credit or insurance (as defined in the Glossary) to each identified consumer. (Section 603(I); 15 U.S.C. 1681a(I); Section 604(c)(1); 15 U.S.C. 1681b(c)(1)).

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8. **Consumers Under 21.** Determine whether the entity provides consumer reports for prescreening that contain dates of birth that show that the consumers are not yet 21, without first obtaining the consumers' consent. (Section 604(c)(1)(B)(iv); 15 U.S.C. 1681b(c)(1)(B)(iv)).

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9. **Extended Fraud Alerts.** Determine whether the entity excludes any consumer whose file includes an extended fraud alert from any list of consumers it prepares and provides to any third party for prescreening, unless:
- a. The consumer or the consumer's representative requests that such exclusion be rescinded or
  - b. More than five years have elapsed since the consumer requested the extended fraud alert. (Section 605A(b)(1)(B); 15 U.S.C. 1681c-1(b)(1)(B)).

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10. **Active Duty Alerts.** Determine whether the entity excludes any consumer whose file includes an active duty alert from any list of consumers that it prepares and provides to any third party for prescreening, unless:

- a. The consumer or the consumer’s representative requests that such exclusion be rescinded or
- b. More than two years have elapsed since the consumer requested the active duty alert. (Section 605A(c)(2); 15 U.S.C. 1681c-1(c)(2)).

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**11. Tracking Inquiries.** Assess the systems and procedures that the entity uses to track prescreening inquiries. Evaluate whether these systems and procedures are adequate to meet the entity’s obligations to provide to the consumer a list of all prescreening inquiries over the last year with any consumer file disclosure, but not to disclose information about such inquiries in consumer reports furnished to others (see steps 2f in Module 3 and step 3e in Module 5). (Section 604(c)(3); 15 U.S.C. 1681b(c)(3); Section 609(a)(5); 15 U.S.C. 1681g(a)(5)).

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### **EMPLOYMENT REPORTS**

The FCRA imposes additional requirements on consumer reporting agencies when they prepare and furnish reports for employment purposes.

**12. Whether Entity Provides Employment Reports.** Determine if the entity furnishes any reports for employment purposes (as determined in step 15 of Module 1). If not, skip to step 18 below.

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**13. Certification Regarding Employment Laws.** Determine if prior to furnishing consumer reports for employment purposes, the entity obtains a certification from the person requesting the report that information from the consumer report will not be used in violation of any applicable federal or state equal employment opportunity law or regulation. (Section 604(b)(1)(A)(ii); 15 U.S.C. 1681b(b)(1)(A)(ii)).

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**14. Other Certifications.** Determine if prior to furnishing consumer reports for employment purposes (other than in connection with an application for employment in a position regulated by the Secretary of Transportation under 49 U.S.C. 31502 or subject to safety regulation by a state transportation agency, when the application was made solely by mail, telephone, computer, or other similar means), the entity obtains a certification from the person requesting the report that:

- a. A separate, clear, and conspicuous written disclosure has been provided to the consumer before the report is procured or caused to be procured indicating that a consumer report may be obtained for employment purposes;

- b. The consumer has authorized in writing (on the disclosure described in (a) above or on another document) the procurement of the report by that person; and
- c. Before taking any adverse action based in whole or in part on the report the requester will provide the following to the consumer to whom the report relates (unless the user is a federal agency or department and appropriate certifications relating to a national security investigation are made under Section 604(b)(4)(A) (15 U.S.C. 1681b(b)(4)(A))):
  - i. A copy of the report and
  - ii. A written description of the consumer’s FCRA rights, as prescribed by the CFPB. (Section 604(b); 15 U.S.C. 1681b(b)).

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**15. Summary of Rights.** Determine if the entity provides a summary of the consumer’s FCRA rights, as prescribed by the CFPB, either before furnishing the report or with the report. (Section 604(b)(1)(B); 15 U.S.C. 1681b(b)(1)(B); Section 609(c); 15 U.S.C. 1681g(c)).

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**16. Certain Transportation-Related Reports.** When consumer reports are issued for use in decisions regarding employment in positions regulated by the Secretary of Transportation under 49 U.S.C. 31502 or subject to safety regulation by a state transportation agency, in connection with applications made solely by mail, telephone, computer, or other similar means, determine if prior to furnishing such reports, the entity obtains a certification from the person requesting the report that:

- a. The requester has provided to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes and a summary of the consumer’s rights under Section 615(a)(3); 15 U.S.C. 1681m(a)(3);
- b. The consumer has consented, orally, in writing, or electronically, to the procurement of the report by the requester;
- c. If the requester takes adverse action on the employment application based in whole or in part on the report, the requester will provide to the consumer to whom the report relates within three business days of taking such action, an oral, written, or electronic notification:
  - i. That adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;
  - ii. Of the name, address, and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the entity if the entity is a nationwide consumer reporting agency);

- iii. That the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and
- iv. That the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in the report; and
- d. If the consumer requests a copy of the consumer report from the person after receiving the disclosure identified above, the person will send or provide to the consumer a copy of the report and a written description of the consumer’s FCRA rights, as prescribed by the CFPB, within three business days of receiving the consumer’s request, together with proper identification. (Section 604(b)(2)-(3); 15 U.S.C. 1681b(b)(2)-(3)).

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**17. Public Record Information for Employment Purposes.**

- a. Determine whether the entity in preparing consumer reports for employment purposes compiles and reports items of information on consumers that are matters of public record and are likely to have an adverse effect upon a consumer’s ability to obtain employment (excluding any situations where the user is a federal agency or department and appropriate certifications relating to a national security investigation are made under Section 604(b)(4)(A) (15 U.S.C. 1681b(b)(4)(A))).
- b. If the answer is yes, determine whether the entity:
  - i. Notifies the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported, at the time that the public record information is reported to the user of the consumer report; or
  - ii. Maintains strict procedures designed to ensure that whenever public record information that is likely to have an adverse effect on a consumer’s ability to obtain employment is reported, it is complete and up-to-date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments are considered up-to-date if the current public record status of the item at the time of the report is reported. (Section 613; 15 U.S.C. 1681k).

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**INVESTIGATIVE CONSUMER REPORTS**

The FCRA imposes additional requirements on consumer reporting agencies when they prepare and furnish “investigative consumer reports.” The term “investigative consumer report” is defined in the Glossary and is a type of consumer report that includes information obtained through personal interviews with the consumer’s neighbors, friends, associates, or others.

In addition to the procedures listed below, step 2h in Module 3 addresses when adverse information from investigative consumer reports can be included in subsequent consumer reports under Section 614 (15 U.S.C. 1681f), and step 3b in Module 5 relates to information sources for investigative consumer reports under Section 609 (15 U.S.C. 1681g).

**18. Whether the Entity Furnishes Investigative Reports.** Determine if the entity furnishes any investigative reports (as determined in step 16 of Module 1). If not, skip steps 19-20 below.

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**19. Certification From Person Requesting Report.** Determine whether prior to preparing or furnishing investigative consumer reports, the entity obtains from the person requesting the report a certification that:

- a. Within three days after first requesting the report, the requester mailed or otherwise delivered a written disclosure to the consumer that
  - i. Clearly and accurately discloses that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and
  - ii. Includes a statement informing the consumer of his or her right to request the additional disclosures described below and a written summary of rights under Section 609(c) (15 U.S.C. 1681g); and
- b. Upon written request made by the consumer within a reasonable period of time after the receipt of the disclosure mentioned above, the requester will make a complete and accurate disclosure of the nature and scope of the investigation requested, in writing mailed, or otherwise delivered, to the consumer within five days after the date the disclosure request was received or the date the report was first requested, whichever is later. (Section 606(a)(1)-(2); 15 U.S.C. 1681d(a)(1)-(2); Section 606(d)(1); 15 U.S.C. 1681d(d)(1)).

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**20. Prohibited Activities.** Determine whether the entity engages in any of the following prohibited activities:

- a. **Inquiries that would violate employment law if made by an employer.** Making an inquiry for the purpose of preparing an investigative consumer report for employment purposes if the making of the inquiry by an employer or prospective employer of the consumer would violate any applicable federal or state equal employment opportunity law or regulation. (Section 606(d)(2); 15 U.S.C. 1681d(d)(2)).
- b. **Certain public record information.** Furnishing an investigative consumer report that includes public record information relating to an arrest, indictment, conviction, civil judicial action, tax lien, or outstanding judgment, unless:

- i. The entity has verified the information’s accuracy during the 30-day period ending on the date the report is furnished or
  - ii. The report is for employment purposes and complies with all of the requirements described in step 17 above. (Section 606(d)(3); 15 U.S.C. 1681d(d)(3)).
- c. **Certain adverse information from personal interviews.** Preparing or furnishing an investigative consumer report on a consumer that contains information that is adverse to the consumer’s interest and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with whom the consumer is acquainted or who has knowledge of such item of information, unless:
- i. The entity has followed reasonable procedures to obtain confirmation of the information from an additional source that has independent and direct knowledge of the information or
  - ii. The person interviewed is the best possible source of the information. (Section 606(d)(4); 15 U.S.C. 1681d(d)(4)).

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**Module 9 - Other Products and Services and  
Risks to Consumers**

Larger participants of the consumer reporting market may provide consumer financial products or services that are not covered in the preceding modules. Examiners should consider whether any of the entity’s consumer financial products or services creates other risks to consumers. In addition, products and services that are covered in Modules 2 to 8 may be subject to federal consumer financial laws that are not specifically addressed in those modules, including the prohibition on engaging in any unfair, deceptive, or abusive acts or practices. The advertising and Gramm-Leach-Bliley privacy procedures below provide examples of the types of conduct to identify. Please refer also to the UDAAP examination procedures in doing this review. Examiners should consult with Headquarters to determine whether the applicable legal standards have been met before citing any violation.

**ADVERTISING ISSUES**

1. Review any advertising and promotional materials prepared by or on behalf of the entity to market the entity’s products or services to consumers in any media or channel. Determine whether they contain any material misrepresentations, expressly or by implication, including of the following:
  - a. The existence, nature, or amount of fees or other costs,
  - b. The nature and benefits of the product or service advertised,
  - c. The means by which to close or cancel an account, or
  - d. Account terms.

In doing this review, consider how the entity’s representations compare to its actual practices, including, for example, how companies close or cancel accounts based on consumer requests, especially for accounts that were part of a free trial or that involve automatic billing or renewal.

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2. Determine whether advertisements and promotional materials directed to consumers in any media or channel clearly disclose all material limitations or conditions on the terms or availability of products or services marketed to consumers, such as:
  - a. The expiration date for terms that apply only during an introductory period or
  - b. Material prerequisites for obtaining particular products, services, or benefits (e.g., discounts, refunds, or rebates).

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3. Determine whether advertisements and promotional materials directed to consumers in any media or channel avoid using fine print, separate statements, or inconspicuous disclosures to correct potentially misleading headlines.

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4. If additional products or services are sold or offered in connection with products or services sold to consumers, determine if the entity ensures that:
  - a. Marketing materials, including direct mail promotions, telemarketing scripts, internet and print ads, radio recordings, and television commercials, reflect the actual terms and conditions of the product and are not deceptive or misleading to consumers;
  - b. Employee incentive or compensation programs tied to the sale and marketing of add-on products require adherence to company-specific program guidelines and do not create incentives for employees to provide inaccurate information about the products;
  - c. Scripts and manuals used by the entity’s telemarketing and customer service centers:
    - i. Direct the telemarketers and customer service representatives to accurately state the terms and conditions of the various products, including material limitations on eligibility for benefits;
    - ii. Prohibit enrolling consumers in programs without clear affirmative consent to purchase the add-on product, obtained after the consumer has been informed of the terms and conditions;
    - iii. Provide clear guidance as to the wording and appropriate use of rebuttal language and any limits on the number of times that the telemarketer or customer service representative may attempt to rebut the consumer's request for additional information or to decline the product; and
    - iv. Where applicable, make clear to consumers that the purchase of add-on products is not required as a condition of obtaining the requested product or service, unless there is such a requirement;
  - d. To the maximum extent practicable, telemarketers and customer service representatives do not deviate from approved scripts; and
  - e. Cancellation requests are handled in a manner that is consistent with the product's actual terms and conditions and that does not mislead the consumer.

*See generally* CFPB Bulletin 2012-06 (July 18, 2012). (For “free” file disclosures that require purchase of additional products or services, see also step 14 in Module 5).

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5. For each product or service that the entity markets to consumers, assess whether the entity designs advertisements, promotional materials, disclosures, and scripts used in any media or channel to be comprehensible by the target audience.

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**GRAMM-LEACH-BLILEY ACT/REGULATION P**

6. For information that is not in or from a consumer report subject to the FCRA:
- a. Identify the types of consumer information that the entity shares with third parties (other than consumer reports subject to the FCRA) and any policies and procedures that the entity has in place governing such information sharing.
  - b. Determine whether the entity discloses to nonaffiliated third parties nonpublic personal information that it receives from financial institutions (other than in the form of a consumer report subject to the FCRA). This could occur, for example, if a consumer reporting agency discloses credit header information obtained from a financial institution to nonaffiliated direct marketers or others that do not have a permissible purpose to obtain that information as part of a consumer report. If not, skip to step 7 below.
  - c. If the answer to step 6b is yes, determine:
    - i. Whether the originating financial institution provided notice to its customers of the sharing described in step 6b and gave them an opportunity to opt out and
    - ii. Whether the redisclosure of the information by the entity under examination described in step 6b was done in a manner that was consistent with the originating financial institution's privacy policy and any applicable consumer opt-out directions.

If the answer to step 6ci or 6cii is no, consult with Headquarters regarding Gramm-Leach-Bliley Act/Regulation P limitations on reuse and redisclosure. (12 CFR 1016.11). For background on this topic, see 65 Fed. Reg. 33646, 33668 (May 24, 2000)).

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7. Determine whether the entity's privacy and information-sharing practices are otherwise consistent with the requirements of Sections 502 to 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802-09) and Regulation P (12 CFR Part 1016), to the extent they apply. Refer to the Privacy of Consumer Financial Information examination procedures for more information.

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**Module 10 – Examination Conclusions and Wrap-Up**

To conclude this supervisory activity, examiners must complete all steps under this section, regardless of the entity’s risk profile.

1. Summarize the findings, supervisory concerns, and regulatory violations.

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2. For the violations noted, determine the root cause by identifying weaknesses in internal controls, audit and compliance reviews, training, management oversight, or other factors. Determine whether the violation(s) are pattern or practice, or isolated.

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3. Identify action needed to correct violations and weaknesses in the institution’s compliance management system, as appropriate.

[Click&type]

4. Discuss findings with the institution’s management and, if necessary, obtain a commitment for corrective action.

[Click&type]

5. Record violations according to agency policy in the Report of Examination/Supervisory Letter and the CFPB’s electronic database system to facilitate analysis and reporting.

[Click&type]

6. Determine if enforcement action is appropriate. If so, contact appropriate agency personnel for guidance.

[Click&type]

7. Prepare a memorandum for inclusion in the workpapers and CFPB’s official system of record that outlines planning and strategy considerations for the next examination and, if appropriate, interim follow-up.

[Click&type]

**GLOSSARY:**

1. “**Consumer reporting agency**” is any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. (Section 603(f); 15 U.S.C. 1681a(f)).
2. “**Consumer report**” is any written, oral, or other communication of any information by a consumer reporting agency that bears on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that 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 any of the following:
  - a. Credit or insurance to be used primarily for personal, family, or household purposes.
  - b. Employment purposes.
  - c. Any other purpose authorized under Section 604 (15 U.S.C. 1681b). (Section 603(d); 15 U.S.C. 1681a(d)).

BUT the term “**consumer report**” does not include any of the following (except with respect to certain disclosures of medical information, as explained in Section 603(d)(3) (15 U.S.C. 1681a(d)(3)) and Section 604(g)(3) (15 U.S.C. 1681b(g)(3))):

- a. Any report containing information solely about transactions or experiences between the consumer and the institution making the report.
- b. Any communication of that transaction or experience information among entities related by common ownership or affiliated by corporate control (for example, different institutions that are members of the same holding company or subsidiary companies of an insured institution).
- c. Communication of other information among persons related by common ownership or affiliated by corporate control if:
  - i. It is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons; and
  - ii. The consumer is given the opportunity, before the time that the information is communicated, to direct that the information not be communicated among such persons.
- d. Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device.

- e. Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer, such as a lender who has received a request from a broker, conveys his or her decision with respect to such a request, if the third party advises the consumer of the name and address of the person to whom the request was made, and such person makes the disclosures the consumer required under Section 615 (15 U.S.C. 1681m).
  - f. A communication that meets the requirements of Section 603(o) (15 U.S.C. 1681a(o)) by a person who regularly performs employment procurement services.
  - g. An employee investigation report of the specific type described in Section 603(y) (15 U.S.C. 1681a(y)). (Section 603(d)(2); 15 U.S.C. 1681a(d)(2)).
3. **“Credit score”**:
- a. Means a numerical value or a categorization derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default;
  - b. But does not include –
    - i. Any mortgage score or rating of an automated underwriting system that considers one or more factors in addition to credit information, including the loan to value ratio, the amount of down payment, or the financial assets of a consumer; or
    - ii. Any other elements of the underwriting process or underwriting decision. (Section 609(f)(2)(A)(ii); 15 U.S.C. 1681g(f)(2)(A)(ii)).
4. **“Firm offer of credit or insurance”** means an offer of credit or insurance that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer. Despite this general definition, the offer may be made conditional on one or more of the following:
- a. That the consumer must be found, based on information in the consumer's application, to meet specific criteria bearing on credit worthiness or insurability, as applicable. These specific criteria must be established:
    - i. Before selection of the consumer for the offer and
    - ii. For the purpose of determining whether to extend credit or insurance pursuant to the offer.
  - b. That there must be a verification:
    - i. That the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer's application for the credit or insurance, or other information bearing on the credit worthiness or insurability of the consumer; or

- ii. Of the information in the consumer's application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability.
  - c. That the consumer must furnish any collateral that is a requirement for the extension of the credit or insurance. Such a requirement must be established before selection of the consumer for the offer of credit or insurance and must be disclosed to the consumer in the offer of credit or insurance. (Section 603(l); 15 U.S.C. 1681a(l)).
- 5. **“Identity theft”** means a fraud committed or attempted using the identifying information of another person without authority. (12 CFR 1022.3(h)).
- 6. **“Identity theft report”** means a report that alleges identity theft with as much specificity as the consumer can provide and that is a copy of an official valid report filed by the consumer with a law enforcement agency, the filing of which subjects the person filing the report to criminal penalties if the information is false, as well as any additional information or documentation that an information furnisher or consumer reporting agency reasonably requests to determine the validity of the alleged identity theft pursuant to the procedures set forth in the FCRA. (12 CFR 1022.3(i)).
- 7. **“Investigative consumer reports”** means consumer reports or portions thereof in which information on a consumer’s character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. This does not include specific factual information on a consumer’s credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer. (Section 603(e); 15 U.S.C. 1681a(e)).
- 8. **“Key factors”** means all relevant elements or reasons adversely affecting the credit score for the particular individual, listed in the order of their importance based on their effect on the credit score. (Section 609(f)(2)(B); 15 U.S.C. 1681g(f)(2)(B)).
- 9. **“Nationwide consumer reporting agency”** is a consumer reporting agency that regularly engages in the practice of assembling or evaluating and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer’s credit worthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:
  - a. Public record information and
  - b. Credit account information from persons who furnish that information regularly and in the ordinary course of business. (Section 603(p); 15 U.S.C. 1681a(p)).
- 10. **“Nationwide specialty consumer reporting agency”** is a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis relating to:
  - a. Medical records or payments,

- b. Residential or tenant history,
- c. Check writing history,
- d. Employment history, or
- e. Insurance claims. (Section 603(x); 15 U.S.C. 1681a(x)).

11. “**Reseller**” is a consumer reporting agency that:

- a. Assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and
- b. Does not maintain a database of the assembled or merged information from which new consumer reports are produced. (Section 603(u); 15 U.S.C. 1681a(u)).