

MEMORANDUM

To: Subscribers to *FACT Act Compliance Manual*

From: Sheshunoff Information Services

Subject: Highlights

Enclosed is the first 2008 update to your *FACT Act Compliance Manual*. This update reflects the following developments:

- On June 3, 2008, President Bush signed the Credit and Debit Card Receipt Clarification Act of 2007 (P. L. 110-241), which added Section 616(d) (15 USC 1681n(d)) to the FCRA to “ensure that consumers suffering from any actual harm to their credit or identity are protected while simultaneously limiting abusive lawsuits that do not protect consumers but only result in increased cost to business and potentially increased prices to consumers.” The bill makes a technical correction to the FACT Act with regard to businesses’ liability for failing to redact the expiration date from receipts. See Chapter 2, Section A, and Chapter 7. For the full text of the Credit and Debit Card Receipt Clarification Act of 2007, see Exhibit 7H.
- The Federal Reserve Board and Federal Trade Commission published proposed risk-based pricing notice regulations in the Federal Register on May 19, 2008. The agencies published corrections on May 29, 2008. The proposed rules generally require a creditor to provide a risk-based pricing notice to a consumer if that creditor both: (1) uses a consumer report in connection with an application for, or a grant, extension, or other provision of, credit to that consumer that is primarily for personal, family, or household purposes; and (2) based in whole or in part on the consumer report, grants, extends, or otherwise provides credit to that consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor. See Chapter 2, Section B, and Chapter 3. The FRB’s proposed rules are reprinted in Exhibit 3E. The FRB’s model forms are reprinted in Exhibit 3C.
- On May 21, the FTC updated the House Committee on Financial Services’ Subcommittee on Oversight and Investigations on the FTC’s study of the use and effect of credit-based insurance scores on consumers of homeowners insurance. See Chapter 2, Section G.
- On March 13, Rep. Luis Gutierrez (D-Ill.) introduced H.R. 5633, The Nondiscriminatory Use of Consumer Reports and Consumer Information Act of 2008. The proposed legislation would amend FCRA Section 604 to prohibit credit reporting agencies from furnishing and insurance companies from using a credit-based insurance score in making insurance granting and pricing decisions if the FTC determines that the use of the score results in racial or ethnic discrimination, or represents a proxy or proxy effect for race or ethnicity in these decisions. See Chapter 2, Section G.