

**[FRB-6210-01-P 50%]**

**[FTC-6750-01 50%]**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 222**

**[Regulation V; Docket Nos. R-1172 and R-1175]**

**FEDERAL TRADE COMMISSION**

**16 CFR Part 602**

**RIN 3084-AA94 Project No. PO44804**

**Effective Dates for the Fair and Accurate Credit Transactions Act of 2003**

**AGENCIES:** Board of Governors of the Federal Reserve System (Board) and Federal Trade Commission (FTC).

**ACTION:** Joint final rules.

**SUMMARY:** The recently enacted Fair and Accurate Credit Transactions Act of 2003 (FACT Act or the Act) requires the Board and the FTC (the Agencies) jointly to adopt rules establishing the effective dates for provisions of the Act that do not contain specific effective dates. The Agencies are adopting joint final rules that establish a schedule of effective dates for many of the provisions of the FACT Act for which the Act itself does not specifically provide an effective date. The Agencies also are jointly making final rules that previously were adopted on an interim basis. Those rules establish December 31, 2003, as the effective date for provisions of the Act that determine the relationship between the Fair Credit Reporting Act (FCRA) and state laws and provisions that authorize rulemakings and other implementing action by various agencies.

**EFFECTIVE DATES:** Subsection (c)(1) of the Agencies’ regulations are effective immediately. Subsections (c)(2)-(3) of the Agencies’ regulations are effective on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:**

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FTC: Christopher Keller or Katherine Armstrong, Attorneys, Division of Financial Practices, (202) 326-3224.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The FACT Act became law on December 4, 2003. Pub. L. 108-159, 117 Stat. 1952. In general, the Act amends the FCRA to enhance the ability of consumers to combat identity theft, to increase the accuracy of consumer reports, and to allow consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. The FACT Act also restricts the use and disclosure of sensitive medical information. To bolster efforts to improve financial literacy among consumers, title V of the Act (entitled the “Financial Literacy and Education Improvement Act”) creates a new Financial Literacy and Education Commission empowered to take appropriate actions to improve the financial literacy and education programs, grants, and

materials of the Federal government. Lastly, to promote increasingly efficient national credit markets, the FACT Act establishes uniform national standards in key areas of regulation.

The Act includes effective dates for many of its sections that vary to take account of the need for rulemaking, implementation efforts by industry, and other policy concerns. Section 3 of the FACT Act requires the Agencies to prescribe joint regulations establishing an effective date for each provision of the Act “[e]xcept as otherwise specifically provided in this Act and the amendments made by this Act.” The FACT Act requires that the Agencies jointly adopt final rules establishing the effective dates within two months of the date of the enactment of the Act. Thus, by law, the Agencies must complete these rulemaking efforts by February 4, 2004. The Act also provides that each of the effective dates set by the Agencies must be “as early as possible, while allowing a reasonable time for the implementation” of that provision, but in no case later than ten months after the date of issuance of the Agencies’ joint final rules establishing the effective dates for the Act. 117 Stat. 1953.

In mid-December of 2003, the Agencies took two related actions to comply with the requirement to establish effective dates for the Act. In the first action, the Agencies implemented joint interim final rules that establish December 31, 2003, as the effective date for sections 151(a)(2), 212(e), 214(c), 311(b), and 711 of the FACT Act, each of which determines the relationship of state laws to areas governed by the FCRA. See 68 FR 74467 (Dec. 24, 2003). In the second action, the Agencies proposed joint rules that would establish a schedule of effective dates for certain other provisions of the FACT Act for which the Act itself does not specifically provide an effective date. See 68 FR 74529 (Dec. 24, 2003). The Agencies sought comment on both of these related actions.

## II. Overview of the Comments Received

The Agencies collectively received more than fifty comments in response to the joint interim final and proposed rules; many commenters sent copies of the same letter to each of the Agencies and submitted separate comments on both the joint interim final and proposed rules.<sup>1</sup> Most of the comments were submitted by financial institutions and associations that represent financial institutions. Other comments were submitted by the National Association of Attorneys General and by groups that represent consumers, including the Consumer Federation of America. Three members of Congress also submitted comments in response to the Agencies' joint interim and proposed rules.

Overall, commenters supported the Agencies' approach to establish effective dates in a bifurcated structure that distinguished the provisions that require immediate effective dates (primarily those that relate to state laws) from the other provisions of the FACT Act. The comments also expressed support for the Agencies' joint proposal to establish a schedule of effective dates that would make certain provisions effective as early as March 31, 2004, and others effective December 1, 2004. Commenters focused on two main issues: first, with respect to the Agencies' joint interim final rules, commenters raised concerns about establishing December 31, 2003, as the effective date for the preemption provisions of the FCRA, as amended by the FACT Act; and second, commenters raised concerns about establishing December 1, 2004, as the effective date for section 214(a) of the FACT Act, which relates to using information for making solicitations to a consumer. After reviewing the comments received, the Agencies have determined

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<sup>1</sup> Comments submitted to the Commission can be found at <http://www.ftc.gov/os/comments/factactcomments/index.html>; for the Board, [http://federalreserve.gov/generalinfo/foia/index.cfm?doc\\_id=R%2D1175&ShowAll=Yes](http://federalreserve.gov/generalinfo/foia/index.cfm?doc_id=R%2D1175&ShowAll=Yes) and [http://federalreserve.gov/generalinfo/foia/index.cfm?doc\\_id=R%2D1172&ShowAll=Yes](http://federalreserve.gov/generalinfo/foia/index.cfm?doc_id=R%2D1172&ShowAll=Yes).

to make final the joint interim rules and have modified the joint proposed rules in certain respects, as discussed below.<sup>2</sup>

### **III. Section-by-Section Analysis**

In the supplementary information to the joint interim final rules, the Agencies addressed the effective dates for certain provisions of the FACT Act that require one or more agencies to undertake an action or rulemaking within a specified period of time after enactment of the Act. 68 FR at 74468. The Agencies determined that no joint regulations under section 3 of the FACT Act are required to make these provisions effective. The Agencies found that, in these cases, the date of enactment of the statute is specified as the lawful effective date because that is the predicate for mandating that an agency action be performed within a period of time after the date of enactment. The commenters addressing this determination supported the Agencies' finding and interpretation under section 3 with respect to these provisions of the Act. The Agencies have not established in these joint final rules the effective dates that apply to these provisions of the Act.

#### Section \_\_\_\_ .1(c)(1)(i): Provisions that relate to state laws

The Agencies received several comments on the joint interim final rules that establish December 31, 2003, as the effective date for the provisions of the FACT Act that make permanent the existing preemption provisions of the FCRA and add others.

Overall, commenters supported the Agencies' determination that a final rule should be prescribed immediately to implement December 31, 2003, as the effective date for paragraph (3) of section 711 of the FACT Act. That section eliminates the so-called sunset provision and thus

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<sup>2</sup> The Agencies note that the citations used in the discussion below refer to the subsections of their respective regulations, leaving citations to the part number used by each agency blank.

makes permanent the current provisions preempting state laws in seven areas regulated under the FCRA.

Commenters presented several different views on the Agencies' joint interim final rule that also establishes December 31, 2003, as the effective date for paragraph (2) of section 711 of the Act. This sub-provision amends the FCRA by providing that no requirement or prohibition may be imposed by the laws of any State "with respect to the conduct required by the specific provisions of" nine sections of the FCRA, as amended by the FACT Act. Several commenters argued that the effective dates for the new preemption provisions added in paragraph (2) should be linked with the effective dates of the substantive provisions of the Act.<sup>3</sup> These commenters argued that, if the FACT Act provisions are read to preempt existing state laws prior to the time that the FACT Act provisions are actually implemented, then consumers who reside in several states may be deprived of the protections under state laws before the federal protections become effective.

Other commenters argued in contrast that the Agencies should clarify that the FACT Act provisions preempt state laws immediately and without regard to when the underlying federal provision becomes effective.<sup>4</sup> These commenters contended that it would be costly and confusing to delay the preemptive effect of the FACT Act provisions and thereby subject financial institutions, consumer reporting agencies, and others to state law requirements for the brief period of time until rules implementing the federal provisions become effective.

The Agencies are required by section 3 of the FACT Act to establish effective dates for various provisions of the FACT Act, and to set those dates not later than ten months after the

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<sup>3</sup> See Nat'l Assoc. of Attorneys General, Consumer Federation of America, *et al.*, Privacy Rights Clearinghouse, Senators Paul S. Sarbanes and Dianne Feinstein, and Representative Barney Frank.

<sup>4</sup> See, e.g., Bank of America, FleetBoston Financial Corp., Financial Services Roundtable, Visa USA, Inc., and Wells Fargo & Co.

issuance of the final joint rules. When and whether state laws are preempted by these provisions of the FACT Act is determined by each specific provision of the FACT Act and the provisions of the FCRA that the FACT Act amends. In establishing December 31, 2003, as the effective date for the provisions of the FACT Act that address the relation to state laws, the Agencies did not determine when or whether any particular state law was or would be preempted.

After review of the comments, the Agencies adopt section \_\_.1(c)(1)(i) as set forth in the interim rules.

The Agencies note that section 711(2) of the FACT Act adds a new provision to the FCRA that bars any requirement or prohibition under any state laws “with respect to the conduct required by the specific provisions” of the FCRA, as amended by the FACT Act. The joint final rules are based on the Agencies’ view that the specific protections afforded under the FCRA override state laws only when the referenced federal provisions that require conduct by the affected persons are in effect because that is the time when conduct is required by those provisions of the FCRA. Similarly, section 151(a)(2) of the FACT Act adds a new provision to section 625(b)(1) of the FCRA that preempts any state law “with respect to any subject matter regulated under” that provision. Only when a federal provision is in effect does the subject matter become regulated under that section and, consequently, state law preempted.<sup>5</sup> In both of these situations, the Agencies believe that a requirement that applies under an existing state law will remain in effect until the applicable specific provision of the FCRA, as amended by the FACT Act, becomes effective. Consequently, because the substantive federal provisions actually will become effective at different times, from six months to three years after the FACT Act was enacted, establishing

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<sup>5</sup> Identical language in the FCRA prefaces the preemption provisions established in sections 214(c) and 311(b) of the FACT Act, and similar language prefaces the preemption provision established in section 212(e).

December 31, 2003, as the effective date for the preemption provisions would allow the state law to continue in effect until the respective federal protections underlying each of the federal preemption provisions comes into effect.

Section \_\_\_\_ .1(c)(1)(ii): Provisions relating to agency action

In the joint interim final rules, the Agencies determined that December 31, 2003, is the effective date for each of the provisions of the FACT Act that authorizes an agency to issue a regulation or to take other action to implement the applicable provision of the FACT Act or of the FCRA. This subsection of the joint interim final rules limited the immediate effective date only to an agency's authority to propose and adopt the implementing regulation or to take such other action. In reaching that determination, the Agencies explained that joint interim final rules would not affect the substantive provisions of the FACT Act implemented by an agency rule.

Commenters supported the Agencies' finding and determination to establish an immediate effective date for the provisions of the Act that relate to an agency's authority to issue a regulation or take other action. After review of the comments received and for the reasons set forth in the joint interim final rules, the Agencies adopt section \_\_\_\_ .1(c)(1)(ii) as set forth in the interim rules. The Agencies reassert the position that the substantive provisions of the Act become effective as provided in the Act, as provided in the Agencies' joint effective date rules, or as provided by the substantive rules promulgated by the agencies, as appropriate.

Section \_\_\_\_ .1(c)(2): Provisions effective March 31, 2004

As the Agencies observed in the joint proposal, the FACT Act contains a number of provisions that clarify or address rights and requirements under the FCRA that are self-effectuating but that do not contain a specific effective date. These provisions are: section 156 (statute of



limitations); sections 312(d) (furnisher liability exception), (e) (liability and enforcement), and (f) (rule of construction); section 313(a) (action concerning complaints); section 611 (communications for certain employee investigations); and section 811 (clerical amendments). Section 111 (amendment to definitions) contains definitions that are self-effectuating but that do not contain specific effective dates. The Agencies proposed to establish March 31, 2004, as the effective date for each of the provisions of the Act listed above.

Overall, commenters supported the Agencies' proposal to establish March 31, 2004, as the effective date for these provisions. Many of the commenters specifically stated that the proposed effective date is appropriate for each of these provisions and would allow a reasonable period of time for affected entities to adjust or develop their systems to comply with the applicable requirements. For example, one financial institution observed that these provisions should not require significant changes to existing business practices conducted by financial institutions.<sup>6</sup>

One commenter argued that the Agencies should establish a later effective date for section 111 of the Act, which relates to certain definitions for the FCRA.<sup>7</sup> This commenter argued that section 111 designates a new type of consumer reporting agency, defined as a "reseller," that is specifically exempted from certain requirements that generally apply to all consumer reporting agencies. Under the Agencies' proposed rule, the definition of "reseller" would be effective earlier than the provisions that exempt a "reseller" from certain obligations, which would be effective on December 1, 2004. The commenter believed that, during that intervening period a "reseller" may be subject to certain requirements under the FCRA, but unable to avail itself of an exemption until the applicable statutory provision added by the FACT Act later becomes effective.

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<sup>6</sup> Capital One Financial Corp.

<sup>7</sup> Countrywide Financial Corp.

The Agencies have established March 31, 2004, as the effective date for section 111 as proposed. Establishing the effective date for section 111, which includes only definitions of terms used throughout the new provisions of the FCRA added by the FACT Act, does not impose any substantive obligation on a “reseller” or others referenced in that section. All the obligations, if any, are imposed by the substantive provisions of the FACT Act and FCRA, which become effective according to the terms of the applicable statutory provision, the Agencies’ joint rules, or as provided by the substantive implementing regulation by an agency, as appropriate. The Agencies also believe that establishing a relatively early effective date for all of the definitions set forth in section 111 is appropriate because the new terms apply to a variety of statutory provisions and implementing regulations that become effective at various times.

One commenter urged the Agencies to adopt a later effective date for section 156 of the Act, which pertains to the statute of limitations.<sup>8</sup> Relative to the time periods that currently apply to actions involving violations of the FCRA, section 156 extends the statute of limitations to permit a plaintiff to bring an action in an appropriate court not later than the earlier of (1) two years after the date of discovery by the plaintiff of the violation or (2) five years after the date on which the violation that is the basis for such liability occurs. This commenter argued that the “extended statute of limitations for many causes of action will require users of consumer reports and others to reevaluate and alter their recordkeeping systems in order to retain the appropriate documents and other information that may be necessary for use in future causes of action.”

The Agencies recognize that financial institutions and others undoubtedly will be affected by the amendment to the statute of limitations. Nevertheless, the Agencies find, upon review of all of the comments received on the proposal, that the potentially adverse effects that may arise due to

a three-month implementation period (following the date of the Agencies' proposal) are minimal. In light of the mandate in section 3 of the Act to "establish effective dates that are as early as possible, while allowing a reasonable time for the implementation of the provisions of this Act," the Agencies have determined that March 31, 2004, is a reasonable effective date for section 156.

Upon review of the comments received on the other provisions of the Act subject to this part of the joint proposal, the Agencies believe that the "reasonable time to implement" standard of section 3 of the Act permits an early effective date because, in general, these provisions do not require significant changes to business procedures. Furthermore, the Agencies note that the commenters did not disagree with the Agencies' preliminary view that each of these provisions furnishes important benefits to consumers and affected businesses. The Agencies find that March 31, 2004, is an appropriate date that balances the statutory mandate to effectuate provisions of the Act "as early as possible" while allowing a reasonable time for the implementation of the provisions described in this part of the joint proposal.

Section \_\_\_\_ .1(c)(3): Provisions effective December 1, 2004

In general, commenters supported the Agencies' proposal to establish December 1, 2004, as the effective date for provisions that require changes in systems, disclosure forms or practices, or implementing regulations to be administered effectively. With a few exceptions discussed below, the commenters stated that allowing the maximum time permitted under section 3 of the Act for these provisions to become effective is appropriate and would allow a reasonable period of time for affected entities to adjust or develop their systems to comply with the applicable requirements.

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<sup>8</sup> MasterCard Int'l.

Many commenters expressed concerns about the Agencies' proposal to establish December 1, 2004, as the effective date for section 214(a) of the Act, which creates a new section 624 of the FCRA.<sup>9</sup> This new section sets forth a special rule that applies to the use of information by an affiliate for making solicitations to a consumer. Commenters argued, in general, that the Agencies' proposed effective date would be inconsistent with the time frame contemplated by the statute itself for implementing this provision. Commenters observed that section 214(b) of the FACT Act provides that regulations "to implement section 624 of the [FCRA]" must be prescribed no later than September 4, 2004, and those implementing regulations must become effective not later than six months thereafter. Commenters noted that aligning the effective date of the statutory provision with the time frame for prescribing the applicable regulations for that provision would, as a practical matter, assist companies to coordinate the notices to consumers required by this new law with their other notices, such as their privacy notices required by the Gramm-Leach-Bliley Act.<sup>10</sup>

Based on the comments received on the joint proposal, the Agencies have reconsidered whether it is necessary for the Agencies to establish an effective date for section 214(a) under section 3 of the FACT Act. Section 624(a)(5) of the FCRA, as added by section 214(a) of the FACT Act, restricts the use of customer information shared by a financial institution with its affiliate. That section also specifically provides that "[t]his subsection shall not prohibit the use of information to send a solicitation to a consumer if such information was received prior to the date on which persons are required to comply with regulations implementing this subsection." As noted above, subsection 214(b) establishes specific dates for the issuance and effectiveness of the implementing regulations for section 214(a). The Agencies believe that this "no-retroactivity"

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<sup>9</sup> See, e.g., America's Community Bankers, Bank of America, MBNA America, FleetBoston Financial Corp., Capital One Financial Corp., Financial Services Roundtable, Household Automotive Finance Corp., Household Bank, Visa USA, Inc., and Bank One Corp.

<sup>10</sup> 15 U.S.C. 6802-03.

paragraph, which specifically references the date of the rules adopted under section 214(b), inextricably connects the underlying obligations imposed by section 214(a) with the effective date(s) specifically set by Congress in section 214(b). Read together, these provisions establish a specific effective date for the obligations in section 214(a).

Section 3 of the FACT Act mandates that the Agencies jointly establish effective dates for the provisions of the Act “[e]xcept as otherwise specifically provided in this Act and the amendments made by this Act.” Because the obligations in section 214(a) are specifically referenced and directly connected to the rulemaking schedule specified in section 214(b), the Agencies believe Congress has established the effective date for section 214(a), which is the effective date of the rules implementing that section. Accordingly, the Agencies have determined that the Agencies are not required by section 3 of the FACT Act to establish an effective date for section 214(a) and that section becomes effective according to the schedule established by section 214(b).

The Agencies believe that the same analysis applies to sections 211(a) (concerning free consumer reports) and 216 (concerning the disposal of consumer report information and records). Each of these sections specifically references and depends upon the implementation of regulations that Congress has required be issued by specific dates.<sup>11</sup> Consequently, Congress has specified the effective dates of these sections to be the effective dates of the implementing rules, which must be completed by specific dates. For this reason, the Agencies believe that the Agencies are not required by section 3 of the FACT Act to set effective dates for section 211(a) or section 216. These sections will become effective on the dates that the implementing rules become effective. The FACT Act contains a number of other provisions without effective dates that would require

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<sup>11</sup> See sections 612(a)(1)(B), (C)(iii), and (C)(iv) of the FCRA, as added by section 211 of the FACT Act, and section 211(d) of the Act; section 628(a)(1) of the FCRA as added by section 216 of the FACT Act.

changes in systems, disclosure forms or practices, or implementing regulations to be administered effectively. The Agencies have determined that December 1, 2004, is an appropriate effective date for all of the provisions included in subsection \_\_.1(c)(3) of the joint proposed rules, except for sections 211(a), 214(a), and 216, as discussed above. Providing the full ten-month period permitted by the Act will allow industry and the various agencies a reasonable time to establish systems and rules to implement these sections effectively. Each of these sections is listed in the final joint rules.<sup>12</sup>

One commenter suggested that the Agencies should establish December 4, 2004, instead of December 1, 2004, as proposed, as the effective date for these provisions of the Act.<sup>13</sup> This commenter noted that December 1, 2004, falls on a Wednesday and contended that an effective date that falls during the middle of the week “could work a hardship on many companies.” The commenter indicated that establishing December 4, 2004, as the effective date for these provisions may help to ensure that implementation processes proceed smoothly because companies would be provided with more time to implement and test new systems in place over that weekend. By contrast, other commenters stated that December 1, 2004, is consistent with the maximum ten-month period permitted under the statute and did not note any adverse consequences that could be posed by that particular day.

Section 3 of the FACT Act permits the Agencies to establish an effective date as late as ten months following the effective date of the Agencies’ joint final rules. This date was uncertain at the time the rules were proposed. The Agencies believed that adopting a date certain would reduce burden on all affected by the joint rules by removing uncertainty about the effective date. The

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<sup>12</sup> The Agencies note that a portion of the amendment made by section 151(a)(1) (which adds section 609(e) to the FCRA) becomes effective 180 days after enactment of the Act.

<sup>13</sup> American Council of Life Insurers.

Agencies proposed December 1, 2004, as a date that would both be within the ten-month statutory period and allow affected entities to begin implementation efforts at the start of a new month. Based on all of the comments, the Agencies continue to believe that, on balance, December 1, 2004, is an appropriate effective date for the provisions of the statute described in section \_\_.1(c)(3) of the joint rules because the first day of the month sharply demarcates the start date for these provisions of the new law and reduces burden on entities that use a monthly cycle.

## **Regulatory Analysis**

### **Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Agencies have reviewed the joint final rules. (The Board has done so under authority delegated to the Board by the Office of Management and Budget.) The joint final rules contain no collections of information pursuant to the Paperwork Reduction Act.

### **Regulatory Flexibility Act**

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a)), the Agencies must publish a final regulatory flexibility analysis with these joint rules. The joint rules establish effective dates for several provisions of the FACT Act. Prior to the enactment of the FACT Act, the FCRA imposed various duties on parties that furnish information to consumer reporting agencies, on parties that use consumer reports, and on consumer reporting agencies themselves. The FACT Act modifies and extends some of these existing duties and imposes new duties on these respective parties. The schedule of effective dates established by the Agencies would make the newly-enacted statutory provisions applicable with respect to these parties.

Because the rules merely establish effective dates, the rules themselves impose no reporting, recordkeeping or other requirements, which would arise either from obligations imposed

by the statute itself or as a result of rulemakings or other implementing actions that may be taken by agencies under the statute.

### **List of Subjects in 12 CFR Part 222**

Banks, banking, Holding companies, state member banks.

List of Subjects in 16 CFR Part 602

Consumer reports, Consumer reporting agencies, Credit, Trade practices.

## **FEDERAL RESERVE SYSTEM**

### **12 CFR Chapter II**

#### **Authority and Issuance**

For the reasons set forth in the preamble, the Board amends 12 CFR part 222 as follows:

### **PART 222—FAIR CREDIT REPORTING (REGULATION V)**

1. The authority citation for 12 CFR part 222 continues to read as follows:

**Authority:** 15 U.S.C. 1681a; Sec. 3, Pub. L. 108-159; 117 Stat. 1953.

2. In § 222.1, paragraphs (c)(2) and (c)(3) are added to read as follows:

#### **Subpart A—General Provisions**

##### **§ 222.1 Purpose, scope, and effective dates.**

\* \* \* \* \*

(c) Effective dates. \* \* \*

(1) Provisions effective December 31, 2003.

(i) Sections 151(a)(2), 212(e), 214(c), 311(b), and 711, concerning the relation to state laws; and

(ii) Each of the provisions of the FACT Act that authorizes an agency to issue a regulation or to take other action to implement the applicable provision of the FACT Act or the applicable provision of the Fair Credit Reporting Act, as amended by the FACT Act, but only with respect to



that agency's authority to propose and adopt the implementing regulation or to take such other action.

(2) Provisions effective March 31, 2004.

(i) Section 111, concerning the definitions;

(ii) Section 156, concerning the statute of limitations;

(iii) Sections 312(d), (e), and (f), concerning the furnisher liability exception, liability and enforcement, and rule of construction, respectively;

(iv) Section 313(a), concerning action regarding complaints;

(v) Section 611, concerning communications for certain employee investigations; and

(vi) Section 811, concerning clerical amendments.

(3) Provisions effective December 1, 2004.

(i) Section 112, concerning fraud alerts and active duty alerts;

(ii) Section 114, concerning procedures for the identification of possible instances of identity theft;

(iii) Section 115, concerning truncation of the social security number in a consumer report;

(iv) Section 151(a)(1), concerning the summary of rights of identity theft victims;

(v) Section 152, concerning blocking of information resulting from identity theft;

(vi) Section 153, concerning the coordination of identity theft complaint investigations;

(vii) Section 154, concerning the prevention of repollution of consumer reports;

(viii) Section 155, concerning notice by debt collectors with respect to fraudulent information;

(ix) Section 211(c), concerning a summary of rights of consumers;

(x) Section 212(a)-(d), concerning the disclosure of credit scores;

(xi) Section 213(c), concerning enhanced disclosure of the means available to opt out of prescreened lists;

(xii) Section 217(a), concerning the duty to provide notice to a consumer;

(xiii) Section 311(a), concerning the risk-based pricing notice;

(xiv) Section 312(a)-(c), concerning procedures to enhance the accuracy and integrity of information furnished to consumer reporting agencies;

(xv) Section 314, concerning improved disclosure of the results of reinvestigation;

(xvi) Section 315, concerning reconciling addresses;

(xvii) Section 316, concerning notice of dispute through reseller; and

(xviii) Section 317, concerning the duty to conduct a reasonable reinvestigation.

## **FEDERAL TRADE COMMISSION**

### **16 CFR Chapter 1**

#### **Authority and Issuance**

For the reasons set forth in the preamble, the FTC amends 16 CFR part 602 as follows:

#### **PART 602—FAIR CREDIT REPORTING**

1. The authority citation for 16 CFR part 602 continues to read as follows:

**Authority:** 15 U.S.C. 1681a; Sec. 3, Pub. L. 108-159; 117 Stat. 1953.

2. In § 602.1, paragraphs (c)(2) and (c)(3) are added to read as follows:

#### **Subpart A—General Provisions**

##### **§ 602.1 Purpose, scope, and effective dates.**

\* \* \* \* \*

(c) Effective dates. \* \* \*

(1) Provisions effective December 31, 2003.

(i) Sections 151(a)(2), 212(e), 214(c), 311(b), and 711, concerning the relation to state laws; and

(ii) Each of the provisions of the FACT Act that authorizes an agency to issue a regulation or to take other action to implement the applicable provision of the FACT Act or the applicable provision of the Fair Credit Reporting Act, as amended by the FACT Act, but only with respect to that agency's authority to propose and adopt the implementing regulation or to take such other action.

(2) Provisions effective March 31, 2004.

(i) Section 111, concerning the definitions;

(ii) Section 156, concerning the statute of limitations;

(iii) Sections 312(d), (e), and (f), concerning the furnisher liability exception, liability and enforcement, and rule of construction, respectively;

(iv) Section 313(a), concerning action regarding complaints;

(v) Section 611, concerning communications for certain employee investigations; and

(vi) Section 811, concerning clerical amendments.

(3) Provisions effective December 1, 2004.

(i) Section 112, concerning fraud alerts and active duty alerts;

(ii) Section 114, concerning procedures for the identification of possible instances of identity theft;

(iii) Section 115, concerning truncation of the social security number in a consumer report;

(iv) Section 151(a)(1), concerning the summary of rights of identity theft victims;

(v) Section 152, concerning blocking of information resulting from identity theft;

(vi) Section 153, concerning the coordination of identity theft complaint investigations;

(vii) Section 154, concerning the prevention of repollution of consumer reports;

- (viii) Section 155, concerning notice by debt collectors with respect to fraudulent information;
- (ix) Section 211(c), concerning a summary of rights of consumers;
- (x) Section 212(a)-(d), concerning the disclosure of credit scores;
- (xi) Section 213(c), concerning enhanced disclosure of the means available to opt out of prescreened lists;
- (xii) Section 217(a), concerning the duty to provide notice to a consumer;
- (xiii) Section 311(a), concerning the risk-based pricing notice;
- (xiv) Section 312(a)-(c), concerning procedures to enhance the accuracy and integrity of information furnished to consumer reporting agencies;
- (xv) Section 314, concerning improved disclosure of the results of reinvestigation;
- (xvi) Section 315, concerning reconciling addresses;
- (xvii) Section 316, concerning notice of dispute through reseller; and
- (xviii) Section 317, concerning the duty to conduct a reasonable reinvestigation.

[THIS SIGNATURE PAGE RELATES TO THE JOINT FINAL RULES ON THE “EFFECTIVE DATES FOR THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003”]

By order of the Board of Governors of the Federal Reserve System, February \_\_, 2004.

Jennifer J. Johnson  
Secretary of the Board

[THIS SIGNATURE PAGE RELATES TO THE JOINT FINAL RULES ON THE “EFFECTIVE DATES FOR THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003”]

Dated: February \_\_, 2004

By Direction of the Commission

Donald S. Clark  
Secretary