

RESCINDED

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Transmittal – See OCC 2020-11

Fair Credit Reporting Act: Final Rule: Model Notices for Furnishing Negative Information

The Board of Governors of the Federal Reserve System (Board) published the attached final rule in the *Federal Register* on June 15, 2004. The final rule, which became effective on July 16, 2004, implemented revisions to the Fair Credit Reporting Act. It set forth model notices that financial institutions may use to comply with the notice requirement relating to furnishing negative information contained in section 217 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act). Although the statutory requirement to provide a notice will not be effective until December 1, 2004, financial institutions have the option to provide a notice prior to that date.

The FACT Act provides that if any financial institution (1) extends credit and regularly and in the ordinary course of business furnishes information to a nationwide consumer reporting agency; and (2) furnishes negative information to such an agency regarding credit extended to a customer, the institution must provide a clear and conspicuous notice about furnishing negative information, in writing, to the customer. "Negative information" means information concerning a customer's delinquencies, late payments, insolvency, or any form of default.

Section 217 specifies that an institution must provide the required notice to the customer prior to, or no later than 30 days after, furnishing the negative information to a nationwide consumer reporting agency. After providing the notice, the institution may submit additional negative information to a nationwide consumer reporting agency with respect to the same transaction, extension of credit, account, or customer without providing additional notice to the customer. If a financial institution has provided a customer with a notice prior to the furnishing of negative information, the institution is not required to furnish negative information about the customer to a nationwide consumer reporting agency. A financial institution generally may provide the notice about furnishing negative information on or with any notice of default, any billing statement, or any other materials provided to the customer, so long as the notice is clear and conspicuous. Section 217 specifically provides, however, that the notice may not be included in the initial disclosures provided under section 127(a) of the Truth in Lending Act (15 USC 1637(a)).

The final rule provides two model notices – one that may be used by a financial institution if the institution provides the notice in advance of providing negative information to a consumer reporting agency, and one that can be used if an institution provides the notice after providing negative information to a consumer reporting agency. Section 217 provides a safe harbor stating that a financial institution shall be deemed to be in compliance with the notice requirement relating to furnishing negative information if the institution uses the model notice issued by the Board, or uses such model notice and rearranges its format.

To

Chief Executive Officers and
Compliance Officers of All
National Banks, Department and
Division Heads, and All
Examining Personnel

Questions concerning this final rule may be directed to your supervisory office or to Carol Turner, compliance specialist, Compliance Department, at (202) 649-5470.

Ann F. Jaedicke
Deputy Comptroller for Compliance

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- [69 FR 33281](#)

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