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Transmittal – See OCC 2020-11

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Affiliate Marketing and Identity Theft Red Flags and Address Discrepancies Rules: Technical Corrections

On May 14, 2009, the Office of the Comptroller of the Currency published in the *Federal Register* technical corrections, which become effective immediately, to its affiliate marketing and identity theft red flags and address discrepancies rules. With respect to the affiliate marketing rules, the corrections remedy two omissions from the model disclosure forms and accompanying instructions. With respect to the red flags and address discrepancies rules, the corrections rectify four typographical errors and clarify the meaning of a term used in the rules.

Corrections to Affiliate Marketing Rules

Pursuant to 12 CFR 41.23(a)(1)(v), an affiliate marketing opt-out notice must accurately disclose "[t]hat the consumer's election will apply for the specified period of time stated in the notice and, if applicable, that the consumer will be allowed to renew the election once that period expires." However, one of the model forms promulgated with the affiliate marketing rules, Model Form C-5, does not include any information about the duration of the opt-out. Therefore, the corrections insert bracketed language into Model Form C-5 that banks may use to make this disclosure. The old version of Model Form C-5 is being renumbered as Model Form C-6. To give banks adequate time to revise their model forms, the safe harbor for Model Form C-6 will remain in effect until January 1, 2010.

Pursuant to 12 CFR 41.23(a)(2)(ii), an affiliate marketing opt-out notice "must explain how an opt-out direction by a joint consumer will be treated" in which two or more consumers jointly obtain a product or service. However, the model forms and instructions to the model forms are currently silent on joint relationships. Therefore, the corrections insert an additional provision into the instructions to the model forms clarifying that banks may add a disclosure regarding the treatment of opt-outs by joint consumers. When the notice pertains to a joint account, banks must include such language under section 41.23(a)(2)(ii).

Corrections to Identity Theft Red Flags and Address Discrepancies Rules

The corrections remedy four typographical errors in the identity theft red flags and address discrepancies rules and supplement to the guidelines. In addition, the corrections clarify that the term "consumer reporting agencies," as used in 12 CFR 41.82, refers only to those that compile and maintain files on consumers on a nationwide basis, as described in 15 USC 1681a(p).

You may direct any questions to your supervisory office or OCC Compliance Division (202) 649-5470.

To

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

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Related Link

- [Technical Corrections \(PDF\)](#)

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