

Terms and Conditions of Use

The following Terms and Conditions ("Terms and Conditions" or "Agreement") apply to all Consumer Reports that User procures from any CRA in all circumstances where (i) User obtains a consumer credit report initially prepared by CRA for another user ("Secondary Use"), and (ii) User has no written agreement with the CRA supplier of such Consumer Report that specifically supersedes these Terms and Conditions (a "Direct Agreement").

1. Definitions

(i) "Consumer Report" means a consumer report as defined by the federal Fair Credit Reporting, Act 15 U.S.C. 1681 et seq. ("FCRA") that a User procures via a GSE System from a CRA for the purpose of Secondary Use in connection with a mortgage transaction, and all information contained therein, including without limitation credit risk scores.

(ii) "CRA" means a consumer reporting agency as defined by the FCRA that is a user of the Equifax Technical Affiliate Network.

(iii) "Equifax Gateway System" means the proprietary mortgage operating system of Equifax Information Services LLC that, among other things, enables CRAs to provide Consumer Reports to Users via a GSE System.

(iv) "Equifax Technical Affiliate Network" means the independent CRAs that use the Equifax Gateway System to interface with the GSE Systems for purpose of, among other things, providing Consumer Reports to Users.

(v) "GSE System" means, as the context requires, either Freddie Mac's Loan Prospector System or Fannie Mae's Desk Top Underwriting System and includes any related or successor systems.

(vi) "User" means one who procures and uses a Consumer Report in connection with a mortgage loan transaction.

2. Any Consumer Report will be requested only for User's exclusive use and held in strict confidence except to the extent that disclosure to others is required or permitted under the last sentence of this Paragraph. Only designated representatives of User will request Consumer Reports on User's employees, and employees are forbidden to obtain Consumer Reports on themselves, associates or any other persons except in the exercise of their official duties. User will not disclose a Consumer Report to the subject of the report except as permitted or required by law, but will refer the subject to CRA.
3. User will hold CRA and all its agents harmless on account of any expense or damage arising or resulting from the publishing or other disclosure of a Consumer Report by User, its employees or agents contrary to the conditions of Paragraph 1 or applicable law.
4. Recognizing that information used to prepare a Consumer Report is secured by and through fallible human sources and that, for the fee charged, CRA cannot be an insurer of the accuracy of the Consumer Report, User understands that the accuracy of any Consumer Report received by User is not guaranteed by CRA, and User releases CRA and its affiliate companies, affiliated credit bureaus, agents, employees, independent contractors and suppliers of information from liability, even if caused by negligence, in connection with the Consumer Report and from any loss or expense suffered by User resulting directly or indirectly from a Consumer Report.
5. CRA and User may agree upon any payment for a Consumer Report in a Direct Agreement or otherwise. Nothing in these Terms and Conditions will be deemed to waive any claim by a CRA for payment for use of a Credit Report.
6. Except as may otherwise be set forth in a Direct Agreement, written notice by CRA to User will terminate these Terms and Conditions effective ten (10) days after the date of that notice, but the obligations and agreements set forth in Paragraphs 2, 3, 4, 7, 8, 9 and 11 herein will remain in force.
7. User acknowledges that Consumer Reports are subject to the obligations of the FCRA, and that it will order Consumer Reports only when User intends to use that Consumer Report: (a) in accordance with the FCRA and all state law counterparts; and (b) for the following permissible purpose: in connection with a single mortgage credit transaction involving the consumer on whom the Consumer Report is to be furnished and involving the extension of credit to the consumer. User will comply with the applicable provisions of the FCRA, Federal Equal Credit Opportunity Act, Gramm-Leach-Bliley Act and any amendments to them, all state law counterparts of them, and all applicable regulations promulgated under any of them including, without limitation and as applicable, any provisions requiring adverse action notification to the consumer. User will use each Consumer Report procured under these Terms and Conditions for the foregoing purpose and for no other purpose.

8. It is recognized and understood that the FCRA provides that anyone "who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined under Title 18, United States Code, imprisoned for not more than two (2) years, or both." CRA may periodically conduct audits of User regarding its compliance with these Terms and Conditions, including, without limitation, the FCRA, other certifications and security provisions in these Terms and Conditions. Audits will be conducted by mail whenever possible and will require User to provide documentation as to permissible use of particular Consumer Reports. User gives its consent to CRA to conduct such audits and agrees that any failure to cooperate fully and promptly in the conduct of any audit, or User's material breach of these Terms and Conditions, constitute grounds for immediate suspension of service or termination of these Terms and Conditions, notwithstanding Paragraph 6 above. If CRA terminates these Terms and Conditions due to the conditions in the preceding sentence, User (i) unconditionally releases and agrees to hold CRA harmless and indemnify it from and against any and all liabilities of whatever kind or nature that may arise from or relate to such termination, and (ii) covenants it will not assert any claim or cause of action of any kind or nature against CRA in connection with such termination.
9. Scores. The following Additional Terms and Conditions are applicable as indicated below to credit risk score information ("Fair, Isaac Score" or "VantageScore"), (collectively referred to as "Score") CRA provides User in connection with a Consumer Report.

- 9.1 Fair, Isaac Score is a consumer report credit scoring service based on models developed by Fair, Isaac that rank consumers in, depending on the applicable model, the consumer credit databases of Trans Union, Equifax or Experian relative to other consumers in the applicable database with respect to the likelihood of those consumers paying their accounts as agreed .

(a) Confidentiality. User will hold all Fair, Isaac Scores received from CRA under this Agreement in strict confidence and will not disclose any Fair, Isaac Score to the consumer or to others except as required by law. User may provide the principal factors contributing to the Fair, Isaac Score to the subject of the report when those principal factors are the basis of User's adverse action against the subject consumer. User must describe the principal factors in a manner which complies with Regulation B of the ECOA. Further, User acknowledges that the Fair, Isaac Score and factors are proprietary and that, except for (a) disclosure to the subject consumer if User has taken adverse action against such consumer based in whole or in part on the consumer report with which the Fair, Isaac Score was delivered or (b) as required by law, User will not provide the Fair, Isaac Score to any other party without CRA's and Fair, Isaac's prior written consent.

(b) Limited Liability. The combined liability of CRA, Fair, Isaac and, as applicable, Trans Union, Equifax and Experian, arising from any particular Fair, Isaac Score provided by CRA and Fair, Isaac shall be limited to the aggregate amount of money received by CRA from User with respect to that particular Fair, Isaac Score during the preceding twelve (12) months prior to the date of the event that gave rise to the cause of action.

(c) Adverse Action. User shall not use a Fair, Isaac Score as the basis for an "Adverse Action" as defined by the Equal Credit Opportunity Act or Regulation B, unless score factor codes have been delivered to User along with the Fair, Isaac Score.

- 9.2 VantageScoreSM is a tri-bureau credit risk model developed using one algorithm across sample data common to Trans Union, Equifax and Experian. The following additional terms and conditions apply to User's receipt and use of VantageScore:

User will request VantageScore only for Client's exclusive use. User may store VantageScores solely for User's own use in furtherance of User's original purpose for obtaining the VantageScores. User shall not use the VantageScores for model development or model calibration, and shall not reverse engineer the VantageScore.

All VantageScores provided hereunder will be held in strict confidence and may never be sold, licensed, copied, reused, disclosed, reproduced, revealed or made accessible, in whole or in part, to any person or third party, except (i) to those employees of User with a need to know and in the course of their employment; (ii) to those third party processing agents and other contractors of User who have executed an agreement that limits the use of the VantageScores by the third party only to the use permitted to User and contains the prohibitions set forth herein regarding model development, model calibration, reverse engineering and confidentiality; (iii) when accompanied by the corresponding reason codes, to the consumer who is the subject of the VantageScore; or (iv) as required by law.

- 9.3 Release. CRA does not guarantee the predictive value of the any Score with respect to any individual, and does not intend to characterize any individual as to credit capability. Neither CRA nor its directors, officers, employees, agents, subsidiary and affiliated companies, or any third-party contractors, licensors or information suppliers of CRA will be liable to User for any damages, losses, costs or expenses incurred by User resulting from any failure of a Score to accurately predict the credit worthiness of User's applicants or customers.
10. Vermont Certification. User certifies that it will comply with applicable provisions under Vermont law. In particular, User certifies that it will order information services relating to Vermont residents that are credit reports as defined by the Vermont Fair Credit Reporting Act ("VFCRA"), only after User has received prior consumer consent in accordance with VFCRA Section 2480e and applicable Vermont Rules. User further certifies that the attached copy of Section 2480e (Exhibit A) of the Vermont Fair Credit Reporting Statute was received from CRA.

11. Data Security.

11.1. This Paragraph 11 applies to any means through which User orders or accesses a Consumer Report including, without limitation, system-to-system, personal computer or the Internet; provided, however, if User orders or accesses Consumer Reports via the Internet, User shall fully comply with all connectivity security requirements specified in Paragraph 10.3, below.

For the purposes of this Paragraph 11, the term "Authorized User" means a User employee that User has authorized to order or access Consumer Reports and who is trained on User's obligations under these Terms and Conditions with respect to the ordering and use of Consumer Reports, including User's FCRA and other obligations with respect to the access and use of consumer reports.

11.2. User will, with respect to handling Consumer Reports:

(a) ensure that only Authorized Users can order or have access to a Consumer Report,

(b) ensure that Authorized Users do not order a Consumer Report for personal reasons or provide them to any third party except as permitted by these Terms and Conditions,

(c) ensure that all devices used by User to order or access a Consumer Report are placed in a secure location and accessible only by Authorized Users, and that such devices are secured when not in use through such means as screen locks, shutting power controls off, or other commercially reasonable security procedures,

(d) take all necessary measures to prevent unauthorized ordering of or access to a Consumer Report by any person other than an Authorized User for permissible purposes, including, without limitation, limiting the knowledge of User security codes, member numbers, User IDs, and any passwords of User to those individuals with a need to know, changing User's user passwords at least every ninety (90) days, or sooner if an Authorized User is no longer responsible for accessing Consumer Reports, or if User suspects an unauthorized person has learned the password, and using all security features in User's software and hardware used to order or access the a Consumer Report,

(e) in no event access a Consumer Report via any wireless communication device, including but not limited to, web enabled cell phones, interactive wireless pagers, personal digital assistants (PDAs), mobile data terminals and portable data terminals,

(f) not use personal computer hard drives or portable and/or removable data storage equipment or media (including but not limited to laptops, zip drives, tapes, disks, CDs, DVDs, software, and code) to store a Consumer Report . In addition, a Consumer Report must be encrypted when not in use and all printed Consumer Reports must be stored in a secure, locked container when not in use, and must be completely destroyed when no longer needed by cross-cut shredding machines (or other equally effective destruction method) such that the results are not readable or useable for any purpose,

(g) if User sends, transfers or ships any Consumer Report, encrypt the Consumer Report using the following minimum standards, which standards may be modified from time to time by CRA: Advanced Encryption Standard (AES), minimum 128-bit key or Triple Data Encryption Standard (3DES), minimum 168-bit key, encrypted algorithms,

(h) monitor compliance with the obligations of this Paragraph 11, and immediately notify CRA if User suspects or knows of any unauthorized access or attempt to access a Consumer Report. Such monitoring will include, without limitation and as applicable, a review of each CRA invoice for the purpose of detecting any unauthorized activity.

(i) not ship hardware or software between User's locations or to third parties without deleting all User number(s), security codes, User IDs, passwords, and any Consumer Report information,

(j) access, use and store Consumer Reports only at or from locations within the territorial boundaries of the United States, United States territories and Canada (the "Permitted Territory"). User may not access, use or store Consumer Reports at or from, or send them to, any location outside of the Permitted Territory without first obtaining CRAs written permission,

(k) inform Authorized Users that unauthorized access to consumer reports may subject them to civil and criminal liability under the FCRA punishable by fines and imprisonment, and

(l) use commercially reasonable efforts to assure data security when disposing of any Consumer Report obtained from CRA. Such efforts must include the use of those procedures issued by the federal regulatory agency charged with oversight of User's activities (e.g. the Federal Trade Commission, the applicable banking or credit union regulator) applicable to the disposal of consumer report information or records.

11.3. User will, with respect to User's network security:

(a) use commercially reasonable efforts to protect Consumer Reports when stored on servers, subject to the following requirements: (i) a Consumer Report must be protected by multiple layers of network security, including but not limited to, firewalls, routers, and intrusion detection devices; (ii) secure access (both physical and network) to systems storing Consumer Reports, must include authentication and passwords that are changed at least every 90 days; and (iii) all servers must be kept current and patched on a timely basis with appropriate security-specific system patches, as they are available,

(b) use commercially reasonable efforts to protect User's connection with dedicated, industry-recognized firewalls that are configured and managed to adhere to industry accepted best practices,

(c) only hold Consumer Reports on an application server which can only be accessed by a presentation server, through one of the following: (i) Dual or multiple firewall method (preferred) – this method consists of a firewall between the Internet and the presentation server(s) and another firewall between the presentation server(s) and the application server holding Consumer Reports. The network firewall should ensure that only the presentation server(s) is/are allowed to access the application server holding Consumer Reports, (ii) Single firewall method (acceptable) – when a dual firewall method is not feasible, a single firewall will provide acceptable levels of protection. The firewall should be installed between the Internet and the presentation server(s). Multiple interfaces to separate the presentation server(s) and the application server holding Consumer Reports are required. The firewall should be configured to allow only the presentation server(s) access to the application server holding Consumer Reports, or (iii) ensure that all administrative and network access to the firewalls and servers must be through an internal network or protected extranet using strong authentication encryption such as VPN and SSH.

(d) use commercially reasonable efforts to route communications from User's internal services to external systems through firewalls configured for network address translation (NAT).

(e) use commercially reasonable efforts to establish procedures and logging mechanisms for systems and networks that will allow tracking and analysis in the event there is a compromise, and maintain an audit trail history for at least three (3) months for review by CRA.

11.4. If CRA reasonably believes that User has violated this Paragraph 11, CRA may, in addition to any other remedy authorized by these Terms and Conditions, with reasonable advance written notice to User and at CRA's sole expense, conduct, or have a third party conduct on its behalf, an audit of User's network security systems, facilities, practices and procedures to the extent CRA reasonably deems necessary, including an on-site inspection, to evaluate User's compliance with the data security requirements of this Paragraph 11.

12. These Terms and Conditions will be governed by and construed in accordance with the laws of the State of New York, without giving effect to its conflicts of laws provisions. Absent a Direct Agreement, these Terms and Conditions constitute the entire agreement of the parties with respect to User receiving Consumer Reports.
13. User certifies it has read the attached **Exhibit B** "Notice to Users of Consumer Reports, Obligations of Users" which explains User's obligations under the FCRA as a user of consumer report information.

EXHIBIT A

Vermont Fair Credit Reporting Statute, 9 V.S.A. § 2480e (1999)

§ 2480e. Consumer consent

- (a) A person shall not obtain the credit report of a consumer unless:
- (1) the report is obtained in response to the order of a court having jurisdiction to issue such an order; or
 - (2) the person has secured the consent of the consumer, and the report is used for the purpose consented to by the consumer.
- (b) Credit reporting agencies shall adopt reasonable procedures to assure maximum possible compliance with subsection (a) of this section.
- (c) Nothing in this section shall be construed to affect:
- (1) the ability of a person who has secured the consent of the consumer pursuant to subdivision (a)(2) of this section to include in his or her request to the consumer permission to also obtain credit reports, in connection with the same transaction or extension of credit, for the purpose of reviewing the account, increasing the credit line on the account, for the purpose of taking collection action on the account, or for other legitimate purposes associated with the account; and
 - (2) the use of credit information for the purpose of prescreening, as defined and permitted from time to time by the Federal Trade Commission.

VERMONT RULES * CURRENT THROUGH JUNE 1999 *****
AGENCY 06. OFFICE OF THE ATTORNEY GENERAL
SUB-AGENCY 031. CONSUMER PROTECTION DIVISION
CHAPTER 012. Consumer Fraud--Fair Credit Reporting
RULE CF 112 FAIR CREDIT REPORTING
CVR 06-031-012, CF 112.03 (1999)
CF 112.03 CONSUMER CONSENT

(a) A person required to obtain consumer consent pursuant to 9 V.S.A. §§ 2480e and 2480g shall obtain said consent in writing if the consumer has made a written application or written request for credit, insurance, employment, housing or governmental benefit. If the consumer has applied for or requested credit, insurance, employment, housing or governmental benefit in a manner other than in writing, then the person required to obtain consumer consent pursuant to 9 V.S.A. §§ 2480e and 2480g shall obtain said consent in writing or in the same manner in which the consumer made the application or request. The terms of this rule apply whether the consumer or the person required to obtain consumer consent initiates the transaction.

(b) Consumer consent required pursuant to 9 V.S.A. §§ 2480e and 2480g shall be deemed to have been obtained in writing if, after a clear and adequate written disclosure of the circumstances under which a credit report or credit reports may be obtained and the purposes for which the credit report or credit reports may be obtained, the consumer indicates his or her consent by providing his or her signature.

(c) The fact that a clear and adequate written consent form is signed by the consumer after the consumer's credit report has been obtained pursuant to some other form of consent shall not affect the validity of the earlier consent.

EXHIBIT B

NOTICE TO USERS OF CONSUMER REPORTS: OBLIGATIONS OF USERS UNDER THE FCRA

All users subject to the Federal Trade Commission's jurisdiction must comply with all applicable regulations, including regulations promulgated after this notice was prescribed in 2004. Information about applicable regulations currently in effect can be found at the Commission's Web site, www.ftc.gov/credit. Persons not subject to the Commission's jurisdiction should consult with their regulators to find any relevant regulations.

The Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681-1681y, requires that this notice be provided to inform users of consumer reports of their legal obligations. State law may impose additional requirements. The text of the FCRA is set forth in full at the Federal Trade Commission's Website at www.ftc.gov/credit. At the end of this document is a list of United States Code citations for the FCRA. Other information about user duties is also available at the Commission's Web site. **Users must consult the relevant provisions of the FCRA for details about their obligations under the FCRA.**

The first section of this summary sets forth the responsibilities imposed by the FCRA on all users of consumer reports. The subsequent sections discuss the duties of users of reports that contain specific types of information, or that are used for certain purposes, and the legal consequences of violations. If you are a furnisher of information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher.

I. OBLIGATIONS OF ALL USERS OF CONSUMER REPORTS

A. Users Must Have a Permissible Purpose

Congress has limited the use of consumer reports to protect consumers' privacy. All users must have a permissible purpose under the FCRA to obtain a consumer report. Section 604 contains a list of the permissible purposes under the law. These are:

- As ordered by a court or a federal grand jury subpoena. Section 604(a)(1)
- As instructed by the consumer in writing. Section 604(a)(2)
- For the extension of credit as a result of an application from a consumer, or the review or collection of a consumer's account. Section 604(a)(3)(A)
- For employment purposes, including hiring and promotion decisions, where the consumer has given written permission. Sections 604(a)(3)(B) and 604(b)
- For the underwriting of insurance as a result of an application from a consumer. Section 604(a)(3)(C)
- When there is a legitimate business need, in connection with a business transaction that is initiated by the consumer. Section 604(a)(3)(F)(i)
- To review a consumer's account to determine whether the consumer continues to meet the terms of the account. Section 604(a)(3)(F)(ii)
- To determine a consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status. Section 604(a)(3)(D)
- For use by a potential investor or servicer, or current insurer, in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation. Section 604(a)(3)(E)
- For use by state and local officials in connection with the determination of child support payments, or modifications and enforcement thereof. Sections 604(a)(4) and 604 (a)(5)

In addition, creditors and insurers may obtain certain consumer report information for the purpose of making "prescreened" unsolicited offers of credit or insurance. Section 604(c). The particular obligations of users of "prescreened" information are described in Section VII below.

B. Users Must Provide Certifications

Section 604(f) prohibits any person from obtaining a consumer report from a consumer reporting agency (CRA) unless the person has certified to the CRA the permissible purpose(s) for which the report is being obtained and certifies that the report will not be used for any other purpose.

C. Users Must Notify Consumers When Adverse Actions Are Taken

The term "adverse action" is defined very broadly by Section 603. "Adverse actions" include all business, credit, and employment actions affecting consumers that can be considered to have a negative impact as defined by Section 603(k) of the FCRA – such as denying or canceling credit or insurance, or denying employment or promotion. No adverse action occurs in a credit transaction where the creditor makes a counteroffer that is accepted by the consumer.

1. Adverse Actions Based on Information Obtained From a CRA

If a user takes any type of adverse action as defined by the FCRA that is based at least in part on information contained in a consumer report, Section 615(a) requires the user to notify the consumer. The notification may be done in writing, orally, or by electronic means. It must include the following:

- The name, address, and telephone number of the CRA (including a toll-free telephone number, if it is a nationwide CRA) that provided the report.
- A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
- A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer makes a request within 60 days.
- A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.

2. Adverse Actions Based on Information Obtained From Third Parties Who Are Not Consumer Reporting Agencies

If a person denies (or increases the charge for) credit for personal, family, or household purposes based either wholly or partly upon information from a person other than a CRA, and the information is the type of consumer information covered by the FCRA, Section 615(b)(1) requires that the user clearly and accurately disclose to the consumer his or her right to be told the nature of the information that was relied upon if the consumer makes a written request within 60 days of notification. The user must provide the disclosure within a reasonable period of time following the consumer's written request.

3. Adverse Actions Based on Information Obtained From Affiliates

If a person takes an adverse action involving insurance, employment, or a credit transaction initiated by the consumer, based on information of the type covered by the FCRA, and this information was obtained from an entity affiliated with the user of the information by common ownership or control, Section 615(b)(2) requires the user to notify the consumer of the adverse action. The notice must inform the consumer that he or she may obtain a disclosure of the nature of the information relied upon by making a written request within 60 days of receiving the adverse action notice. If the consumer makes such a request, the user must disclose the nature of the information not later than 30 days after receiving the request. If consumer report information is shared among affiliates and then used for an adverse action, the user must make an adverse action disclosure as set forth in I.C.1 above.

D. Users Have Obligations When Fraud and Active Duty Military Alerts are in Files

When a consumer has placed a fraud alert, including one relating to identity theft, or an active duty military alert with a nationwide consumer reporting agency as defined in Section 603(p) and resellers, Section 605A(h) imposes limitations on users of reports obtained from the consumer reporting agency in certain circumstances, including the establishment of a new credit plan and the issuance of additional credit cards. For initial fraud alerts and active duty alerts, the user must have reasonable policies and procedures in place to form a belief that the user knows the identity of the applicant or contact the consumer at a telephone number specified by the consumer; in the case of extended fraud alerts, the user must contact the consumer in accordance with the contact information provided in the consumer's alert.

E. Users Have Obligations When Notified of an Address Discrepancy

Section 605(h) requires nationwide CRAs, as defined in Section 603(p), to notify users that request reports when the address for a consumer provided by the user in requesting the report is substantially different from the addresses in the consumer's file. When this occurs, users must comply with regulations specifying the procedures to be followed, which will be issued by the Federal Trade Commission and the banking and credit union regulators. The Federal Trade Commission's regulations will be available at www.ftc.gov/credit.

F. Users Have Obligations When Disposing of Records

Section 628 requires that all users of consumer report information have in place procedures to properly dispose of records containing this information. The Federal Trade Commission, the Securities and Exchange Commission, and the banking and credit union regulators have issued regulations covering disposal. The Federal Trade Commission's regulations may be found at www.ftc.gov/credit.

II. CREDITORS MUST MAKE ADDITIONAL DISCLOSURES

If a person uses a consumer report in connection with an application for, or a grant, extension, or provision of, credit to a 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 person, based in whole or in part on a consumer report, the person must provide a risk-based pricing notice to the consumer in accordance with regulations to be jointly prescribed by the Federal Trade Commission and the Federal Reserve Board.

Section 609(g) requires a disclosure by all persons that make or arrange loans secured by residential real property (one to four units) and that use credit scores. These persons must provide credit scores and other information about credit scores to applicants, including the disclosure set forth in Section 609(g)(1)(D) ("Notice to the Home Loan Applicant").

III. OBLIGATIONS OF USERS WHEN CONSUMER REPORTS ARE OBTAINED FOREMPLOYMENT PURPOSES

A. Employment Other Than in the Trucking Industry

If information from a CRA is used for employment purposes, the user has specific duties, which are set forth in Section 604(b) of the FCRA. The user must:

- Make a clear and conspicuous written disclosure to the consumer before the report is obtained, in a document that consists solely of the disclosure, that a consumer report may be obtained.
- Obtain from the consumer prior written authorization. Authorization to access reports during the term of employment may be obtained at the time of employment.
- Certify to the CRA that the above steps have been followed, that the information being obtained will not be used in violation of any federal or state equal opportunity law or regulation, and that, if any adverse action is to be taken based on the consumer report, a copy of the report and a summary of the consumer's rights will be provided to the consumer.
- Before taking an adverse action, the user must provide a copy of the report to the consumer as well as the summary of consumer's rights. (The user should receive this summary from the CRA.) A Section 615(a) adverse action notice should be sent after the adverse action is taken.

An adverse action notice also is required in employment situations if credit information (other than transactions and experience data) obtained from an affiliate is used to deny employment. [Section 615\(b\)\(2\)](#)

The procedures for investigative consumer reports and employee misconduct investigations are set forth below.

B. Employment in the Trucking Industry

Special rules apply for truck drivers where the only interaction between the consumer and the potential employer is by mail, telephone, or computer. In this case, the consumer may provide consent orally or electronically, and an adverse action may be made orally, in writing, or electronically. The consumer may obtain a copy of any report relied upon by the trucking company by contacting the company.

IV. OBLIGATIONS WHEN INVESTIGATIVE CONSUMER REPORTS ARE USED

Investigative consumer reports are a special type of consumer report in which information about a consumer's character, general reputation, personal characteristics, and mode of living is obtained through personal interviews by an entity or person that is a consumer reporting agency. Consumers who are the subjects of such reports are given special rights under the FCRA. If a user intends to obtain an investigative consumer report, Section 606 requires the following:

- The user must disclose to the consumer that an investigative consumer report may be obtained. This must be done in a written disclosure that is mailed, or otherwise delivered, to the consumer at some time before or not later than three days after the date on which the report was first requested. The disclosure must include a statement informing the consumer of his or her right to request additional disclosures of the nature and scope of the investigation as described below, and the summary of consumer rights required by Section 609 of the FCRA. (The summary of consumer rights will be provided by the CRA that conducts the investigation.)
- The user must certify to the CRA that the disclosures set forth above have been made and that the user will make the disclosure described below.
- Upon the written request of a consumer made within a reasonable period of time after the disclosures required above, the user must make a complete disclosure of the nature and scope of the investigation. This must be made in a written statement that is mailed, or otherwise delivered, to the consumer no later than five days after the date on which the request was received from the consumer or the report was first requested, whichever is later in time.

V. SPECIAL PROCEDURES FOR EMPLOYEE INVESTIGATIONS

Section 603(x) provides special procedures for investigations of suspected misconduct by an employee or for compliance with Federal, state or local laws and regulations or the rules of a self-regulatory organization, and compliance with written policies of the employer. These investigations are not treated as consumer reports so long as the employer or its agent complies with the procedures set forth in Section 603(x), and a summary describing the nature and scope of the inquiry is made to the employee if an adverse action is taken based on the investigation.

VI. OBLIGATIONS OF USERS OF MEDICAL INFORMATION

Section 604(g) limits the use of medical information obtained from consumer reporting agencies (other than payment information that appears in a coded form that does not identify the medical provider). If the information is to be used for an insurance transaction, the consumer must give consent to the user of the report or the information must be coded. If the report is to be used for employment purposes – or in connection with a credit transaction (except as provided in regulations issued by the banking and credit union regulators) – the consumer must provide specific written consent and the medical information must be relevant. Any user who receives medical information shall not disclose the information to any other person (except where necessary to carry out the purpose for which the information was disclosed, or as permitted by statute, regulation, or order).

VII. OBLIGATIONS OF USERS OF "PRESCREENED" LISTS

The FCRA permits creditors and insurers to obtain limited consumer report information for use in connection with unsolicited offers of credit or insurance under certain circumstances. Sections 603(l), 604(c), 604(e), and 615(d). This practice is known as "prescreening" and typically involves obtaining from a CRA a list of consumers who meet certain preestablished criteria. If any person intends to use prescreened lists, that person must (1) before the offer is made, establish the criteria that will be relied upon to make the offer and to grant credit or insurance, and (2) maintain such criteria on file for a three-year period beginning on the date on which the offer is made to each consumer. In addition, any user must provide with each written solicitation a clear and conspicuous statement that:

- Information contained in a consumer's CRA file was used in connection with the transaction.
- The consumer received the offer because he or she satisfied the criteria for credit worthiness or insurability used to screen for the offer.
- Credit or insurance may not be extended if, after the consumer responds, it is determined that the consumer does not meet the criteria used for screening or any applicable criteria bearing on credit worthiness or insurability, or the consumer does not furnish required collateral.
- The consumer may prohibit the use of information in his or her file in connection with future prescreened offers of credit or insurance by contacting the notification system established by the CRA that provided the report. The statement must include the address and toll-free telephone number of the appropriate notification system.

In addition, once the Federal Trade Commission by rule has established the format, type size, and manner of the disclosure required by Section 615(d), users must be in compliance with the rule. The FTC's regulations will be at www.ftc.gov/credit.