

Update

Fair And Accurate Credit Transactions Act

The FACT Act has been the compliance challenge of 2004 – along with a few other things such as Bank Secrecy, fair lending, and information security. In August of this year, we published a chart based on what we knew at that time. As with most compliance, much of that information – especially effective dates – has changed. So, in the spirit of the Winter Solstice, we offer an updated chart.

This chart shows the FACT Act section and the section of the FCRA where it resides, a brief description of the requirements, an indication of the parties or types of transactions that are covered, and the known or estimated effective date.

In several cases, the effective date set by the statute has passed and regulations have not been issued. The agencies have indicated in a letter to the American Bankers Association that these provisions will not be effective until final regulations are issued. These provisions are indicated as “delayed.”

As was the case with the chart published in August, the status and effective dates for some rules will change as the agencies take final action. This chart is therefore a guide, authoritative only as of the date of publication. We recommend that you use this as a living document to help track changes and regulations as they are issued.

FACTA → FCRA	Requirement/Impact	Coverage	Agency/Status/ Effective date
§111 - §603	amendments to definitions: Active duty military consumer, Fraud alert, Identity theft, Reseller, Nationwide specialty consumer reporting agency	as defined	effective 3/11/04
§112 - §605A	Fraud alerts: consumer may assert identity theft. 90-day alert may be extended to 7 years. Include alert in all credit reports. Active duty alerts for military while on active duty. Customer must prove identity to increase or activate account.	Credit bureaus: <ul style="list-style-type: none"> • allegations in good faith • may require proof of identity 	FTC/ final rules effective 12/1/04
§113 - §605	Truncation of credit and debit card account numbers	Person that accepts credit or debit card	1 yr for machines in use after 1/1/05; 3 yrs for machines in use before 1/1/05
§114 - §615	Guidelines for policies and procedures to identify risks to account holders and customers; procedures for issuing replacement cards; identify patterns and practices and activities that indicate identity theft.	Financial institution or credit bureau; <ul style="list-style-type: none"> • for account holder or customer 	FFIEC members and FTC; effective 12/1/04 - statutory Deadline DELAYED
§115 - §609	Consumer may request that credit bureau truncate first five digits of SSN	Credit bureau <ul style="list-style-type: none"> • affects reports to consumer only 	FTC, effective 12/1/04
§151 - §609	Identity Theft Rights Summary, providing information to victim related to alleged fraud in response to victim's request	Information providers must provide free copy to account holder alleging identity theft	FTC with banking agencies; takes effect 180 days after enactment; final 12/1/04
§152 - §605B	Blocking information resulting from identity theft upon proper notification from consumer	Credit bureaus <ul style="list-style-type: none"> • block any information • notify reporter of information 	FTC; effective 12/1/04
§153 --	Coordination of identity theft complaint investigations: FTC to develop model form for reporting identity theft to credit bureaus and creditors. Credit bureaus must submit annual reports to FTC.	Credit bureaus	12/1/04
§154 - §623(a)	Steps to maintain accuracy in consumer reports including notices that an identity theft alert has been filed and limits on reporting information that a consumer has alleged to be fraudulent. Creditors must have procedures to respond to notifications from credit bureaus.	Information furnisher must have procedures <ul style="list-style-type: none"> • Protects "persons" 	FTC regulations effective 12/1/04.
§155 - §615	Notice by debt collectors with respect to fraudulent information	Any person acting as a debt collector	Effective 12/1/04, model notice in Act, no regulations

FACTA6FCRA	Requirement/Impact	Coverage	Agency/Status/ Effective date
§§211 – §612, 609(c)	Free annual disclosure of credit report to consumer, reinvestigations upon consumer request, Consumer's right to obtain credit score	Credit bureaus	FTC; 12/1/04
§212 – §609(a)	Disclosure by credit bureau of credit scores to consumers, including explanation of how score was developed and key factors that adversely affected the score. Disclosure of credit score by mortgage lenders using credit score in making closed end or open end consumer-purpose mortgages secured by 1-4 family dwellings.	Credit bureaus Any person who makes or arranges loans to consumers and uses credit score • Consumers	Effective 12/1/04 Model notice in Act
§213 – §615(d)(1)	Consumer may opt out of prescreened list solicitations for a 5-year period. FTC to conduct public awareness campaign.	Credit bureaus	FTC and agencies - DELAYED
§214 – §624	Affiliate Sharing of credit reports for purpose of solicitations prohibited unless clear opt-out disclosure and opportunity is provided. Opt outs to be effective for 5 years. Authorizes study of information sharing practices.	Any person, includes banks, bank holding companies and affiliates Limits apply to marketing of any product or service	FTC and agencies - DELAYED
§216 – §628	Disposal of consumer report information and records	Any person, includes banks, bank holding companies and affiliates Limits apply to marketing of any product or service	FTC and agencies final rule, effective 7/1/05
§217 – §623(a)	Disclosure to consumer that negative information has been reported to a credit bureau.	Any person that uses consumer report for any business purpose • information in or taken from the report	Final Rule effective 12/1/04
§311 – §615	Risk based pricing notice that terms offered are materially less favorable than most favorable terms.	Financial institution reporting credit • credit information	FTC and Banking agencies - 12/1/04 - DELAYED
§312 – §623	Increase accuracy and integrity of information furnished to credit reporting agencies, including accurate reporting procedures, dispute procedures, and policies and procedures for investigation of information challenged by the consumer	Any person using credit report • all consumer credit	12/1/04 - DELAYED
§313 – §611	Consumer reporting agency action in response to consumer complaints, FTC action in response to complaints	Credit bureaus Furnishers of information	12/1/04
§314 – §611(a)(5)(A)	Improved disclosure of results of reinvestigation, prompt deletion of incorrect information from file	Credit bureaus	12/1/04
§315 – §605	Reconciling addresses on credit reports and requests for credit reports to reduce identity theft	Credit bureaus Furnishers of information	FTC and Banking agencies; 12/1/04 - DELAYED
§316 – §611(a)	Notice of dispute through reseller of credit information.	Credit bureaus must notify credit report users of address differences.	12/1/04
§317 – §611(a)(1)(A)	Reasonable reinvestigation required to determine whether disputed information is inaccurate.	Credit bureaus	12/1/04
§411 – §604(g)	Protection of medical information in the financial system, limitations on the use of medical information by creditors		FTC, banking agencies; final rules - DELAYED
§412 – §623(a)	Confidentiality of medical contact information in consumer reports.	Creditors Credit transactions	Effective 15 months after enactment
§611 – §603	Excludes certain employee investigation communications from consumer reports.	Medical information reporters	