

### Summary of Law and Regulation

The Fair and Accurate Credit Transaction Act (the FACT Act), which amends the Fair Credit Reporting Act (FCRA) establishes numerous requirements that provide protection for the victims of identity theft, provide more information to consumers about credit reports and credit scoring, limits sharing of information with affiliates, and protects consumer medical and other information.

### Policy

It is policy of \_\_\_\_\_ to:

- \*Respond to fraud and activity duty alerts
- \*Properly dispose of consumer report information
- \*Provide information to victims of identity theft
- \*Properly handle notice of identity theft
- \*Respond to any notification received from identity theft, to prevent refurnishing blocked information
- \*Truncate the last 5 digits of a debit or credit card
- \*Comply with the rules regarding sharing information with affiliates
- \*Provide an oral, written, or electronic notice to those who receive less favorable terms
- \*Comply with guidelines adopted by the Federal banking agencies, and the FTC for use when furnishing information to a Credit Reporting Agency (CRA) regarding the accuracy and integrity of the information relating to consumer that such entities furnish to CRA's
- \*Provide the required notice and credit scores
- \*Provide the notice regarding negative information
- \*Take appropriate action when the bank receives a notice of discrepancy in the consumer's address
- \*Comply with the red flag guidelines
- \*Protect medical information in the financial system

The Compliance Officer, with assistance from the compliance committee members, is responsible for developing appropriate written procedures and internal controls to assure compliance with the act.

The senior officer of each department is responsible for implementing and complying with these procedures and internal controls.

## IDENTITY THEFT PROCEDURE

**Definition:** Financial identity theft occurs when someone uses another consumer's personal information (name, social security number, etc) with the intent of conducting multiple transactions to commit fraud that results in substantial harm or inconvenience to the victim. This fraudulent activity may include opening deposit accounts with counterfeit checks, establishing credit card accounts, establishing line of credit, or gaining access to the victim's accounts with the intent of depleting the balances.

This differs from check fraud (forged signature or forged endorsement) or an unauthorized ATM or Debit Card transaction in that it involves more than an isolated single act of fraud. Some examples of Identity Theft include:

### **Account Take Over**

Account take over is one of the more prevalent forms of Identity Theft. It occurs when a fraudster obtains an individual's personal information (account number and social security number is usually all it takes) , and changes the official mailing address with that individual's bank. Once accomplished, the fraudster has established a window of opportunity in which several transactions are conducted without the victim's knowledge using the victim's personal information. Notice, this involves the intent to take over the victim's identity as well as more than one isolated transaction.

It can also occur when the fraudster pays employees of various companies and banks to steal account information from the checks that are remitted for payment. The employees will provide the name, address, bank routing number and bank account number. The fraudster will then order checks from a third party check vendor, and begin writing checks on the victims account.

### **Credit Take Over**

Credit take over is another form of Identity Theft that is becoming more prevalent. It occurs when a fraudster obtains an individual's personal information (social security number is usually all it takes) and establishes credit using that social security number. This may include opening credit card accounts or taking out loans without the victim's knowledge. Again, this involves the intent to take over the victim's identity as well as more than an isolated transaction.

**IDENTITY THEFT INVOLVING \_\_\_\_\_ ACCOUNT**

The following procedures are to be observed when a consumer reports suspected identity theft involving a \_\_\_\_\_ bank account (deposit or credit)

**WRITTEN NOTIFICATION**

The consumer is required to notify the bank in writing if they suspect they are victim of identity theft and that it involves an account or loan with \_\_\_\_\_. If the initial notification is made by phone and the consumer is in the area, they must be required to visit one of our branch locations to complete the "Notification of suspected Identity Theft" forms. If they are calling from outside the area, you mail or fax them a form for completion. **(NOTE: Be certain to inform the consumer that we will not begin an investigation until we receive the completed "Notification of Suspected Identity Theft form.)** Be certain to include "consumer guidelines for completion" in the mailing or fax.

If the consumer comes into one of our branch locations, assist them in completing the "Notification of Suspected Identity Theft" form using the guidelines included in the "Guidelines for Consumer Completion".

**IDENTIFICATION:** Make a copy of the consumer's photo identification. Attach the copy of the consumer's identification and the police report to the completed Notification of Suspected Identify Theft. Forward a copy to the Security Officer.

**IDENTITY THEFT – What's It All About brochure**

Provide the consumer with the Identity Theft – What's It All About brochure and review the information with the consumer. Inform the consumer of their right to place a fraud alert on their credit reports (page 12 of the brochure)

**BLOCK OR CLOSE THE ACCOUNT AND OPEN A NEW ACCOUNT :**

If the account in question is a deposit account, close that account and open a new one for the consumer. The customer should use new PINs and passwords on the new account. Place an alert on CIF (Central File) via the officer code "999" to indicate that the owner is a victim of ID Theft. Add the information regarding the ID Theft to the Hold Transactions excel sheet, as a means of notifying all tellers and personal bankers of the situation. The Security Officer will determine the course of action once the investigation is complete.

If the account in question is a loan account, the appropriate steps will be taken to place a hold on the account, block the reporting of that loan to the CRA and

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place an alert on CIF (Central File) via the officer code "999" to indicate that the owner is a victim of ID Theft.

Do not give any information regarding the account to the consumer. It is critical that the bank first verify that we are dealing with the victim of identity theft rather than the perpetrator of the crime. Inform the consumer that the bank's Security Officer will contact them after verifying the Police Case Number or FTC affidavit of identity theft.

**Notification of Suspected Identity Theft  
Guidelines for Consumer Completion**

**Note:** Please be certain to provide all the information requested on this form. Failure to do so may cause a delay in our investigation.

1. **Name:** Please provide your *full legal name*.
2. **Name on Account(s) if different than above:** Provide any names on valid accounts that may be different than above. For example, your legal name may be William and the name of the account would be Bill.
3. **SS#: Social Security Number**
4. **Phone Number:** The number where we may reach you during our investigation.
5. **Physical Address:** Your current *physical* address. P.O Boxes are not acceptable.
6. **Mailing Address:** List your mailing address if different from your physical address.
7. **Account Number(s) of suspected fraud:** Provide the account numbers associated with the suspected fraud if the account numbers are known to you.
8. **Valid \_\_\_\_\_ Accounts:** Please provide the account numbers and account type for accounts that you have with the bank.
9. **Police Case Number or FTC affidavit of identity theft:** Provide the assigned case number. We will be unable to initiate an investigation without it.
10. **Provide a detailed statement describing the questionable activity and the documents/information you are requesting from us.** You may attach additional pages as needed.
11. **Date of the application or transaction in question.** Provide the dates of the suspected activity if known.
12. **Please provide any additional information that may assist with our investigation.**

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**13. Please be certain to authorize us to release information pertaining to this investigation as indicated by you.**

**14. Please sign and date the form. NOTICE that your signature MUST BE NOTARIZED.**

Mail this information to:

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Attn: Compliance Officer

**Be sure to enclose a NOTARIZED copy of your current driver's license or state issued photo ID.** Please see the reverse side of this form for a listing of acceptable identification.

Acceptable forms of primary identification include:

- **Current US Driver's License with photo**
- Current State Issued Identification card with photo
- Current Passport
- Current Military Identification card



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14) By signing below, I \_\_\_\_\_, attest to the accuracy and truthfulness of the information provided above.

\_\_\_\_\_

Signature

\_\_\_\_\_

**Notary:**

**My Commission Expires:**

**For \_\_\_\_\_ Use Only**

To Be Completed by the Branch/Department Receiving the Notification

PLEASE PRINT

Received by: \_\_\_\_\_ Branch/ Department: \_\_\_\_\_  
Phone Ext: \_\_\_\_\_

Date Received: \_\_\_\_\_

**Verification of Identification:**

Primary ID:  
ID Country/State: \_\_\_\_\_ ID Type: \_\_\_\_\_  
ID #: \_\_\_\_\_  
Issue Date: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Send the completed form to the Security Officer with copies of the identification cards.

To Be Completed by the Security Officer

PLEASE PRINT

Date Research Completed: \_\_\_\_\_ Completed by:  
\_\_\_\_\_

Information provided to \_\_\_\_\_ as specified by the victim above.

Date Provided: \_\_\_\_\_

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### FRAUD AND ACTIVITY DUTY ALERTS

Definitions:

**Fraud Alerts:** a statement in the CRA file of a consumer that:

- Notifies all prospective users of a consumer report relating to a consumer that the consumer may be a victim of fraud, including identity theft; and
- Is presented in a manner that facilitates a clear and conspicuous view of the statement described in the above paragraph by any person requesting such consumer report

The FACT Act establishes three types of fraud alerts:

- \*Initial fraud alert –no less than 90 days - consumer asserts in good faith a suspicion of ID Theft
- \*Extended fraud alert – 7 year period – reported ID Theft to local police or FTC
- \*Active duty alert – not less than 12 months – assigned to service away from the usual duty station of the consumer

### Procedures:

Upon receipt of a consumer report that contains an initial, extended or active duty alert, it is the responsibility of the personal banker or loan officer to re-verify the identity of the customer, utilizing the current CIP procedures, plus require at least one additional piece of verification. If the alert contains instructions to contact the consumer before taking any action on the request, then the personal banker or loan officer must contact the consumer in the manner specified to verify identity.

→The employee handling the account must complete the **Approval To Proceed** form and submit it to the Senior Officer of their department.

→All files containing an alert will be reviewed by and the **Approval To Proceed** form signed by the Senior Officer before action is communicated to the applicant.

→If the employee is unable to confirm the identity, the Senior Officer signs the form denying approval to proceed.

→If the employee is able to confirm the identity, the Senior Officer signs the form, allowing the employee to proceed with the account.

→The original completed and executed **Approval To Proceed** form will be added to the customer file and a copy forwarded to the Security Officer to be retained for two (2) years.

**Approval To Proceed**

**Customer Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Method of contact prescribed in the alert: \_\_\_\_\_

**Loan or Account Information:**

Account or Loan Type: \_\_\_\_\_

Amount: \_\_\_\_\_

Requesting employee: \_\_\_\_\_

**Outcome of Contact:**

- Unable to Contact – Do not proceed
- Contact made, unable to verify identity – Do Not Proceed
- Contact made, identity verified – PROCEED

Name of employee making contact: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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### **RED FLAG**

Definition:

Red Flag Guidelines: to try to identify patterns, practices and types of activities that may indicate identity theft

#### **Procedures:**

When opening an account, processing an application or other request for credit, the personal banker or loan processor must complete the Red Flag Checklist. Any exceptions on the Checklist must be reported in an Officer's Memorandum to the Personal Banking Manager/Officer or Senior Lender.

For an account for which a card is issued, the personal banker opening the account will obtain a phone number to use for use in contacting the cardholder in the event of suspicious activity on the account.

When a notification of a change of address is received by the bank and a request for an additional or replacement card(s) is received for the same account during the first 30 days after the change of address notification, the additional or replacement card(s) may not be issued unless the bank has notified the cardholder of the request either:

- At the former address of the cardholder and provides to the cardholder a means of promptly reporting incorrect address changes; and/or
- By such other means of communication as the cardholder and the card issuer previously agreed to.

The contact with the borrower and the outcome of the contact must be reported in an Officer's Memorandum to the Compliance Officer.

#### **Red Flag Checklist:**

The Checklist will be developed upon publication of the Red Flag Guidelines by the regulatory agencies.

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### PROVIDING INFORMATION TO VICTIMS

Definition:

**Victim:** a consumer whose means of identification or financial information has been used or transferred (or has alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, an identity theft or a similar crime.

#### Procedures:

If an apparent victim of identity theft makes an appropriate request for information, the Operations Officer shall supply the account or loan application and the business transaction records to the apparent victim. An appropriate request must:

- Be in writing;
- Be mailed to \_\_\_\_\_ Attn: Compliance Officer; and
- Include relevant information about any transaction alleged to be a result of identity theft to facilitate compliance with this section including, if known by the victim:
  - the date of the application or transaction; and
  - any other identifying information such as an account or transaction number

Before supplying the information to the victim, the Operations Officer must require the victim to provide:

- Proof of positive identification; and
- Proof of a claim of identity theft

Positive proof of identification is obtained using the current CIP procedures. Proof of an identity theft claim includes:

- A copy of a police report evidencing the claim of the victim of identity theft; and
- A properly completed copy of a FTC affidavit of identity theft

The Operations Officer will complete the **Request of Information Related to Identity Theft** and submit the form to the Security Officer for approval to block the reporting of identity theft information to a CRA or any other party. The Security Officer shall maintain the Request Form and attached records for five (5) years after the date of receipt.

**REQUEST FOR INFORMATION RELATED TO IDENTITY THEFT**

Person Making the Request:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Proof of ID: \_\_\_\_\_

Evidence of ID Theft: \_\_\_\_\_

Type of Account: \_\_\_\_\_

Action Taken: \_\_\_\_\_

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Person completing the form: \_\_\_\_\_

Supervisor: \_\_\_\_\_

Please attach records related to the identification of the requester and the proof of the ID Theft

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### **REPOLLUTION**

Definition: repollution is refurbishing information on an account that has been identified as information resulting from an alleged identity theft, notification from either a CRA or a consumer via an identity theft report.

#### Procedures:

The repollution procedures will be followed when the bank receives:

- Notice from a CRA that information the bank provided resulted from Identity Theft; or
- An Identity Theft Report from a consumer

When either above-described item is received, the Senior Loan Officer will complete a Notice of Identity Theft form and attach the information received from either the CRA or the customer. The Notice Form and attached material will be delivered to the Vice President – Loan Operations on the day of receipt. After the investigation has been completed, verification of the information, the Vice President Loan Operations will take action to block the information from reporting to a CRA or any party within 24 hours of receipt. If the account is a deposit account, generally this is accomplished by closing the suspected account and opening a new account for the customer, if appropriate.

The Vice President – Loan Operations will sign acknowledging receipt of the Notice of ID Theft and placement of the block and forward a copy to the Compliance Officer within 24 hours of placing the block.

## NOTICE OF IDENTITY THEFT

**Party Submitting the Information (CRA or Consumer):**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Date and time or receipt: \_\_\_\_\_

**Verification of Consumer Identity:**

**Details of alleged ID Theft:** \_\_\_\_\_

\_\_\_\_\_

Signature of the Senior Loan Officer: \_\_\_\_\_

I acknowledge receipt of this notice. The information that has been reported as resulting from identity theft:

Has been blocked

Had not been blocked for the following reason(s):

\_\_\_\_\_

Signature of VP – Loan Operations: \_\_\_\_\_

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**NOTICE OF ACTION TAKEN REGARDING PRICING**

General Rule:

An oral, written, or electronic notice of action taken is required when a consumer report is used in connection with an application for, or a grant, extension, or other provision of, credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumer from or through that person, based in whole or in part on a consumer report.

Definitions:

Material Terms: - - - - -

Materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person: - - - - -

Procedures:

When a loan is approved on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of our customers, written notice will be given to the customer that will include the model language provided by the regulators. This notice may be included in the commitment letter or in a separate written form. If the customer is advised orally that the loan request is approved under these conditions, the notice can be read to the customer and subsequently mailed. A copy of the commitment letter that includes the notice or the separate written notice will be maintained in the customer file. The Senior Vice President - Lending will review the file and sign off on the approval memo.

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### RESPONSIBILITY OF FURNISHERS OF CREDIT INFORMATION

#### General Rule:

The Federal banking agencies, the National Credit Union Administration, and the FTC are required to:

- \*Establish and maintain guidelines for use by each person that furnished information to a CRA regarding the accuracy and integrity of the information relating to consumers that such entities furnish to CRAs, and update such guidelines as often as necessary; and
- \*Prescribe regulations requiring each person that furnishes information to a CRA to establish reasonable policies and procedures for implementing the established guidelines.

It is a prohibited practice for a person to furnish information relating to a consumer to any CRA if the person:

- \*Knows or has reasonable cause to believe that the information is inaccurate; or
- \*The person has been notified by the consumer, at the address specified by the person for such notices, that specific information is inaccurate, and the information is, in fact, inaccurate.

#### Definition:

Reasonable cause to believe that the information is inaccurate means having specific knowledge, *other than solely allegations by the consumer*, which would cause a reasonable person to have substantial doubts about the accuracy of the information.

#### Procedures:

(the regulators are required to develop guidelines regarding the accuracy and integrity of the information relating to consumers that is furnished to CRAs. Those guidelines will serve as our procedures once completed)

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General Rule:

### **Disputing Information Directly With the Furnisher:**

A consumer can dispute the accuracy of credit information either through a CRA or directly with the furnisher at the address specified for such notices.

Procedures:

A consumer who seeks to dispute directly with \_\_\_\_\_, shall provide a dispute notice to either the Loan Operations Manager . That dispute notice must:

- \*Be in writing
- \*Identifies the specific information that is being disputed;
- \*Explains the basis for the dispute; and
- \*Includes all supporting documentation required by the furnisher to substantiate the basis of the dispute

The Loan Operations Manager within 5 days, will:

- \*Conduct an investigation with respect to the disputed information;
- \*Review all relevant information provided by the consumer with the notice;
- \*Complete the investigation of the dispute and report the results of the investigation to the consumer before the end of a 30 day period that begins upon receipt of the notice; and
- \*If the investigation finds that the information reported was inaccurate, promptly notify each CRA to which the bank furnished the inaccurate information and provide the CRA any correction that is necessary to make the information accurate, using the E-OSCAR system.

The Loan Operations Manager is not required to follow the above steps if it is determined that the dispute is frivolous or irrelevant, including:

- \*When the consumer fails to provide sufficient information to investigate the disputed information; or
- \*The dispute is substantially the same as a dispute previously submitted

No later than 5 business days after making a determination that a dispute is frivolous or irrelevant, the Loan Operations Manager will provide a notice to the consumer by mail including:

- \*The reasons for the determination; and
- \*Identification of any information required to investigate the disputed information

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### DISCLOSURE OF CREDIT SCORES

#### General Rule:

The Lender who makes or arranges loans for closed end loan or open end line of credit for a consumer purpose that is secured by 1 to 4 units of residential real estate is required to provide to the consumer, as soon as reasonably practical, a credit score notice (model language to follow) and a consumer credit score statement including the following:

- \*The current credit score of the consumer calculated by the credit reporting agency for a purpose related to the extension of credit;
- \*The range of possible credit scores under the model used
- \*All of the key factors(not to exceed 4) that adversely affected the credit score of the consumer in the model used;
- \*The name of the entity that provided the credit score

#### Procedures:

The Notice to Home Loan Applicant will be provided to at least one applicant for a consumer purpose loan that is *secured by one-to-four unit residential real property, both open-end and closed-end loans*. The notice will be provided at the time of application for face-to-face applications and within 3 business days, for applications received through the mail, Internet or by phone.

A separate Credit Score Notice will be provided to each applicant within 5 business days of receipt of the credit score.

- ›The mortgage processor will be responsible for completing and mailing the notice for each mortgage loan applicant, utilizing the Calyz system.
- ›Consumer Lending staff will be responsible for completing and mailing the notice for each Home Equity Line of Credit and any other consumer purpose loan secured by one-to-four unit residential real property, utilizing the Appro system.

The Credit Score Notice will be included on the mortgage loan document checklist and Home Equity Line of Credit checklist. A loan cannot be closed and funded unless the Notice to Home Loan Application and the Credit Score Notice have been provided to the customer, as noted on the checklist.

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(sample)

### NOTICE TO THE HOME LOAN APPLICANT

In connection with your application for a (home loan, home equity line of credit), the lender must disclose to you that score that a consumer-reporting agency distributed to users and the lender used in connection with your home, and the key factors affecting your credit scores.

The credit score is a computer-generated summary calculated at the time of the request and based on information that a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit-scoring technologies change.

Because the score is based on information in your credit history, it is very important that you review the credit-related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

If you have questions about your credit score or the credit information that is furnished to you, contact the consumer reporting agency at the address and telephone number provided with this notice, or contact the lender, if the lender developed or generated the credit score. The consumer reporting agency plays no part in the decision to take any action on the loan application and is unable to provide you with specific reasons for the decision on a loan application.

Name of CRA: Trans Union  
Address: P O Box 2000  
Chester, Pa 19022  
Phone Number: 800-916-8800

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(sample)

John Smith  
123 Main St  
Anytown, IL 60521

December 3, 2004

**NOTICE TO HOME EQUITY LINE OF CREDIT/LOAN APPLICANT**

In connection with your application for a residential real estate secured loan, we must disclose to you the score that a consumer-reporting agency distributed to users and we used in connection with your request, and the key factors affecting your credit score. **This notice is not a statement regarding the status of your loan request.**

The credit score is a computer-generated summary calculated at the time of the request and based on information that a consumer reporting agency or lender has on file. The scores are based on data about your credit history and payment patterns. Credit scores are important because they are used to assist the lender in determining whether you will obtain a loan. They may also be used to determine what interest rate you may be offered on the mortgage. Credit scores can change over time, depending on your conduct, how your credit history and payment patterns change, and how credit-scoring technologies change.

Because the score is based on information in your credit history, it is very important that you review the credit-related information that is being furnished to make sure it is accurate. Credit records may vary from one company to another.

Your credit score is: \_\_\_\_  
The scores range from a low score of \_\_\_\_ to a high score of \_\_\_\_  
The consumer reporting agency listed below created the following information about your credit score on \_\_\_\_\_.

Following are the key factors that affected your credit score:

Factor 1 \_\_\_\_\_

Factor 2 \_\_\_\_\_

Factor 3 \_\_\_\_\_

Factor 4 \_\_\_\_\_

**If you have questions about your credit score or the credit information that is furnished to you, contact the consumer-reporting agency at the following address or telephone number:**

Name of CRA: Trans Union

Address: P O Box 2000  
Chester, Pa 19022

Phone Number: 800-916-8800

**If you have questions concerning the terms of the loan, contact your lender.**

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### **NOTICE OF NEGATIVE INFORMATION**

#### Final rule:

If any financial institution that extends credit and regularly, in the ordinary course of business furnishes information to a CRA and furnishes negative information to an agency regarding credit extended to a customer, the financial institution shall provide a notice of such furnishing of negative information, in writing, to the customer.

#### Definition:

Negative Information – information concerning a customer's delinquencies, late payments, insolvency, or any form of default

#### Procedures:

\_\_\_\_\_ includes the notice of negative information on the 10 day late notices produced for all loans. In any other situation other than late payments, including, but not limited to, insolvency, a separate notice is mailed to the customer prior to reporting the negative information to the CRA. This notice is also printed on the consumer application and home equity line of credit application.

#### **Model Notice:**

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.

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### RECONCILING ADDRESSES

General rule:

If a person has requested a consumer report relating to a consumer from a CRA; **AND** the request includes an address that substantially differs from the addresses in the file of the consumer; **AND** the agency provides a consumer report in response to the request, **THEN** the CRA must notify the requester of the existence of the discrepancy.

Procedures:

When a notice of address discrepancy is received from a CRA, enhanced CIP procedures will be followed by the loan processor and the correct address will be ascertained. Under the enhanced procedures, the customer's identity will be verified a second time and additional proof of identification will be obtained. The second verification will be noted in the consumer's file.

The loan cannot be closed and funded until the Senior Officer has reviewed the identification documents and signed off on the Notice of Address Discrepancy.

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### SHARING INFORMATION WITH AFFILIATES

#### Existing Rule in FCRA:

#### FCRA permits the sharing of:

- Transaction and experience information (the term is not defined) among affiliates; or
- “Other” information (beyond transaction and experience information) among affiliates, if the consumer is given notice and the opportunity to opt out of the sharing and the consumer does not elect to opt out.

#### New Rule in FACT Act:

The FACT Act expands affiliate rules to include new provisions governing marketing solicitations;

Any **eligibility information** received from an affiliate may not be used to make a solicitation for **marketing purposes** to a consumer about its products or services, unless:

- It is clearly and conspicuously disclosed to the consumer that the information may be communicated among affiliates for purposes or making such solicitations to the consumer; AND
- The consumer is provided an opportunity and a simple method to prohibit the making of such solicitations (opt out)

#### Definitions:

**Affiliate:** any person that is related by common ownership or common corporate control with another person

**Company:** any corporation, limited liability company, business trust, general or limited partnership, associations or similar organization

#### Control of a Company:

- Ownership, control, or power to vote 25% or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;
- Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or
- The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company

#### Solicitation:

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Marketing initiated by a person to a particular consumer that is:  
→Based on eligibility information communicated to that person by its affiliate  
→Intended to encourage the consumer to purchase such products or service

**It is the policy of \_\_\_\_\_ not to share any eligibility information with any affiliates.**

## PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

### General Rule:

A creditor shall not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

### Definition:

#### Medical information:

Means information or data, whether oral or recorded, in any form of medium, created by or derived from a health care provider or the consumer that relates to:

- The past, present, or future physical, mental, or behavioral health care to an individual;
- The provision of health care to an individual; or
- The payment for the provision of health care to an individual

Does not include:

- The age or gender of a consumer,
- Demographic information about the consumer, including a consumer's residence address or e-mail address
- Any other information about a consumer that does not relate to the physical, mental, or behavioral health or condition of a consumer, including the existence or value of any insurance policy

### Procedures:

We will use medical information to:

Determine the consumer's eligibility, or continued eligibility, for credit so long as:

- The information relates to debts, expenses, income, benefits, collateral, or the purpose of the loan, including the use of proceeds;
- We use the medical information in a manner and to an extent that is no less favorable than we would use comparable information that is not medical information in a credit transaction; and
- We do not take the consumer's physical, mental, or behavioral health, condition or history, type of treatment, or prognosis into account as part of any such determination.

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→Authorize, process, or document a payment or transaction on behalf of the consumer in a manner that does not involve a determination of the consumer's eligibility, or continued eligibility, for credit; or  
Maintain or service the consumer's account in a manner that does not involve a determination of the consumer's eligibility, or continued eligibility, for credit.