

Press Releases

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OTS 05-20 - Agencies Issue FACT Act Interim Final Rules on Medical Information

Office of Thrift Supervision

FOR RELEASE at 10:00 A.M. EDT

For further information

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Joint Release

**Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
National Credit Union Administration
Office of the Comptroller of the Currency
Office of Thrift Supervision**

Agencies Issue FACT Act Interim Final Rules on Medical Information

The federal bank, thrift, and credit union regulatory agencies today issued interim final rules under the Fair Credit Reporting Act (FCRA) that create exceptions to the statutory prohibition against obtaining or using medical information in connection with credit eligibility determinations. The interim final rules also address the sharing of medically related information among affiliates.

The effective date for these rules is nine months after the date of publication in the *Federal Register*, which is expected on or about June 9, 2005.

Section 411 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) amended the FCRA to provide that a creditor may not obtain or use medical information in connection with any determination of a consumer's eligibility, or continued eligibility, for credit, except as permitted by regulations or the FACT Act. However, the FACT Act also requires the agencies to prescribe regulations that permit creditors to obtain and use medical information for credit eligibility purposes when necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs. A proposed rule was published for comment on April 28, 2004.

The interim final rules create exceptions to the general statutory prohibition on obtaining and using medical information. The provisions are similar to those contained in the proposed rule and include exceptions for the use of medical information that is also financial information typically considered in credit underwriting. As authorized by the FACT Act, the agencies have

expanded the scope of the rules so that the exceptions will apply to all creditors, not just to creditors ordinarily regulated by one of the agencies.

Section 411 of the FACT Act also amended the FCRA to limit the ability of creditors and others to share medically related information among affiliates, except as permitted by the statute, regulation, or order. The interim final rules specify the circumstances in which creditors may share medically related information among affiliates without becoming consumer reporting agencies.

The interim final rules are being issued by the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision. The rules of each agency are substantively identical.

The rules are being issued as interim final rules to allow for public comment on their expanded scope. The agencies request comment within thirty days after publication in the *Federal Register*. The *Federal Register* notice is attached.

Attachment - <http://www.occ.gov/static/news-issuances/ots/press-releases/ots-pr-2005-20a.pdf>

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The Office of Thrift Supervision, an office of the Department of the Treasury, regulates and supervises the nation's thrift industry. OTS's mission is to ensure the safety and soundness of, and compliance with consumer protection laws by, thrift institutions, and to support their role as home mortgage lenders and providers of other community credit and financial services. OTS also oversees the activities and operations of thrift holding companies that own or control thrift institutions. Copies of OTS news releases and other documents are available at the OTS web page at www.ots.treas.gov.