



Independent Bankers Association of Texas

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Compliance Overview

Fair Credit Reporting Act (FCRA)

Note: This Overview is intended to address the general requirements of Regulation V and do not examine certain specifics. Links are provided to resources for specific information on permitted purposes, notice, and adverse action requirements.

What is the Fair Credit Reporting Act? 15 U.S.C. 1681

The Fair Credit Reporting Act (often referred to as “Fic-rah”), implemented by Regulation V, was enacted to “...promote fairness, accuracy and privacy of information in the files of consumer reporting agencies (CRAs).

What is the scope and coverage of FCRA? § 603

FCRA applies to a “consumer” defined as any natural person (i.e. a “natural person”). Essentially, the FCRA applies to and imposes specific requirements on:

- CRAs
- Users of consumer reports
- Furnishers of information to CRAs

In general, what does FCRA require? § 607

FCRA deals primarily with the use of information reflecting on credit history provided in a consumer’s credit report from the CRAs used in making credit and employment decisions. However, it also regulates other “consumer reports” from third parties such as criminal background checks and investigative reports.

In regulating the use of consumer reports, FCRA imposes duties on:

- CRAs, which prepare consumer reports and maintain the reported information.
- Furnishers (including banks), which provide information about their experiences with consumers to CRAs.
- Third parties (including banks) that request and use consumer reports.

What are the “permissible purposes” for obtaining a consumer credit report? § 604

The permissible purposes as outlined by §604 and 15 USC §1681b include:

1. when an existing or potential creditor is requesting a consumer credit report in connection with a “credit transaction” involving the extension of credit to a consumer, or in connection with the review or collection of a consumer’s existing account;
2. when a consumer authorizes the release of their credit report to anyone who makes a request of the consumer;
3. when a credit report is issued in response to a court order, subpoena or grand jury request;



4. when a potential employer is requesting a consumer credit report in connection with employment, so long as the consumer consents to the release and the employer agrees to make certain disclosures if adverse action is taken based in any part on the report;
5. when an insurance company is requesting a consumer credit report in connection with underwriting a policy for the consumer;
6. the government has a permissible purpose if it gets a copy of a consumer report in connection with issuing a government license or other benefit (such as public assistance); and
7. whenever there's a legitimate business need (e.g. opening a checking account).

Note: For the exact language on “permissible purpose of consumer reports,” see page 10 of the Fair Credit Reporting Act (as published by the Federal Trade Commission) found [here](#).

Are there notice requirements when a consumer credit report is used? § 609

Yes, FCRA generally requires a creditor to provide a consumer applying for credit with a notice when, based on the consumer's credit report, the creditor provides credit to the consumer on less favorable terms than it provides to other consumers.

A creditor must disclose a consumer's credit score and information relating to a credit score on a risk-based pricing notice when the score of the consumer to whom the creditor extends credit or whose extension of credit is under review is used in setting the material terms of credit.

A compliance option for the risk-based pricing notice is available in which a creditor may choose to send a credit score exception notice to all credit applicants instead of providing a risk-based pricing notice to certain consumers.

Note: For a very informative FRB [Consumer Compliance Outlook](#) entitled *Adverse Action Notice Requirements Under the ECOA and the FCRA*, click [here](#).

Must a bank notify a consumer before reporting negative information to a CRA? § 609

Yes, a bank must provide consumers with a disclosure either before negative information is reported to a nationwide consumer reporting agency (Model Notice B-1) or within 30 days after reporting the negative information (Model Notice B-2). The disclosure need not be given each time negative information is provided, so long as it has been provided to the consumer at least once.

Must a bank notify a consumer about their credit scores in connection with mortgage loans? § 609

Yes. Any bank that makes or arranges loans using consumer credit scores in connection with an application for a loan that is secured by 1-to-4 units of residential real property must provide a disclosure of credit scores as soon as reasonably practicable: the exact text of the required notice found in FCRA §609(g)(1)(D) and FACT Act §212(c); the credit score and certain information about the score; and the name, address, and telephone number of each consumer reporting agency that provided a credit score used by the person in the transaction. This requirement applies only to loans that are for consumer purposes.



What are the compliance obligations for reporting consumer credit information under FCRA? § 623

There are numerous compliance obligations for furnishers under Section 623. A bank that reports information on consumers must not furnish inaccurate information to a CRA. Additionally, a furnisher of information must investigate a consumer's dispute of the completeness or accuracy of information after the furnisher receives notice from a CRA.

With regard to furnisher duties to investigate a consumer's dispute, the furnisher (e.g. bank) may be asked by the consumer directly to investigate a dispute. The bank must conduct a reasonable investigation and report results to the consumer, generally within 30 days.

Note: For a very informative FRB [Consumer Compliance Outlook](#) entitled *Furnishers' Compliance Obligations for Consumer Credit Information Under FCRA and ECOA*, click [here](#).

Note: For tips on handling disputes to furnishers, see the FTC's *Consumer Reports: What Information Furnishers Need to Know*. Click [here](#), and scroll down to the section entitled *Disputes to Furnishers*.

Are there adverse action notice requirements under FCRA? § 604

Yes, both the Equal Credit Opportunity Act (ECOA) and FCRA impose adverse action notice requirements. Under FCRA "adverse action" is taken with respect to a credit application or existing credit account, to an insurance transaction, to an employment decision, and in certain other circumstances.

For a covered transaction, a person must provide notice if:

- Adverse action was taken based in whole or in part on information in a consumer report;
- Consumer credit is denied or a charge for credit increased based on information obtained from third parties other than consumer reporting agencies bearing upon the consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; or
- Adverse action was taken based on information furnished by a corporate affiliate of the person taking the action.

Note: For a very informative FRB [Consumer Compliance Outlook](#) entitled *Adverse Action Notice Requirements Under the ECOA and the FCRA*, click [here](#).

What are the common violations of FCRA?

FCRA imposes a variety of requirements on the information in consumer credit reports and the use of those reports. Consumers most frequently raise claims alleging that a CRA or user violated the FCRA by negligently or willfully

- Failing to provide notice to consumers when action is taken based upon information in a consumer credit report.
- Issuing or obtaining a consumer report for an impermissible purpose.
- Failing to follow reasonable procedures for ensuring the accuracy of consumer information.
- Failing to properly investigate or reinvestigate a consumer's dispute.

For Model Forms and Disclosures under FCRA, click [here](#).

IBAT's Legal Ease Archive on FCRA, click [here](#).

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