



For Release

FACTA Disposal Rule Goes into Effect June 1

June 1, 2005

Beginning today, a new federal rule will require businesses and individuals to take appropriate measures to dispose of sensitive information derived from consumer reports. Any business or individual who uses a consumer report for a business purpose is subject to the requirements of the Disposal Rule, a part of the Fair and Accurate Credit Transactions Act of 2003 (FACTA), which calls for the proper disposal of information in consumer reports and records to protect against "unauthorized access to or use of the information."

The standard for the proper disposal of information derived from a consumer report is flexible, and allows the organizations and individuals covered by the Rule to determine what measures are reasonable based on the sensitivity of the information, the costs and benefits of different disposal methods, and changes in technology. Although the Disposal Rule applies to consumer reports and the information derived from consumer reports, the FTC encourages those who dispose of any records containing a consumer's personal or financial information to take similar protective measures.

The Rule applies to people and both large and small organizations that use consumer reports, including: consumer reporting companies; lenders; insurers; employers; landlords; government agencies; mortgage brokers, car dealers; attorneys; private investigators; debt collectors; individuals who pull consumer reports on prospective home employees, such as nannies or contractors; and entities that maintain information in consumer reports as part of their role as a service provider to other organizations covered by the Rule.

The Disposal Rule applies to consumer reports or information derived from consumer reports. The Fair Credit Reporting Act defines the term consumer report to include information obtained from a consumer reporting company that is used – or expected to be used – in establishing a consumer's eligibility for credit, employment, or insurance, among other purposes. Examples of consumer reports include credit reports, credit scores, reports businesses or individuals receive with information relating to employment background, check writing history, insurance claims, residential or tenant history, or medical history.

The Rule requires disposal practices that are reasonable and appropriate to prevent the unauthorized access to – or use of – information in a consumer report. For example, reasonable measures for disposing of consumer report information could include establishing and complying with policies to: burn, pulverize, or shred papers containing consumer report information so that the information cannot be read or reconstructed; destroy or erase electronic files or media containing consumer report information so that the information cannot be read or reconstructed; or conduct

due diligence and hire a document destruction contractor to dispose of material specifically identified as consumer report information consistent with the Rule. Due diligence could include: reviewing an independent audit of a disposal company's operations and/or its compliance with the Rule; obtaining information about the disposal company from several references; requiring that the disposal company be certified by a recognized trade association; or reviewing and evaluating the disposal company's information security policies or procedures.

Financial institutions that are subject to both the Disposal Rule and the Gramm-Leach-Bliley (GLB) Safeguards Rule, which requires institutions to take steps to protect sensitive customer information, should incorporate practices dealing with the proper disposal of consumer information into the information security program that the Safeguards Rule requires. Information is available at www.ftc.gov/privacy/privacyinitiatives/safeguards.html.

FACTA directed the FTC, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the Securities and Exchange Commission to adopt comparable and consistent rules regarding the disposal of sensitive consumer report information. The FTC's Disposal Rule became effective June 1, 2005. It was published in the Federal Register on November 24, 2004 [69 Fed Reg 68690], and is available at www.ftc.gov/os/2004/11/041118disposalfrn.pdf.

The FTC has issued a new publication, "New Rule Seeks to Protect Privacy by Requiring Proper Disposal of Sensitive Consumer Information," available at www.ftc.gov/bcp/edu/pubs/business/alerts/alt152.shtm, to educate businesses about the new requirements.

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint in English or Spanish (bilingual counselors are available to take complaints), or to get free information on any of 150 consumer topics, call toll-free, 1-877-FTC-HELP (1-877-382-4357), or use the complaint form at <http://www.ftc.gov>. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

Contact Information

Media Contact:

Jen Schwartzman
Office of Public Affairs
202-326-2674

Staff Contact:

Katherine Armstrong
Bureau of Consumer Protection
202-326-3250