

# Farm Credit Administration

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## INFORMATIONAL MEMORANDUM



September 2, 2004

To: The Chief Executive Officer  
All Farm Credit System Institutions

From: Thomas G. McKenzie, Director  
Office of Examination

Subject: Fair and Accurate Credit Transactions Act of 2003

The Fair and Accurate Credit Transactions Act of 2003 (FACT Act) became law on December 4, 2003. 1.) (*Pub. L. 108-159, 117 Stat. 1952*). In general, the FACT Act amended the Fair Credit Reporting Act (FCRA) 2.) 15 U.S.C. §§ 1681 – 1681x. to enhance the ability of consumers to combat identify theft, to increase the accuracy of consumer reports, and to allow consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. The FACT Act also restricts the use and disclosure of sensitive medical information that is contained in a consumer report. In addition, to promote increasingly efficient national credit markets, the FACT Act establishes uniform national standards in key areas of regulation regarding consumer report information 3.) *68 FR 74468 (Dec. 24, 2003)*.

The FACT Act generally applies only to consumer credit, not business (including agricultural) credit. Moreover, a number of provisions are triggered only if a creditor engages in specified consumer credit activities. Farm Credit System (FCS) institutions are subject to certain provisions of the FACT Act, including:

- Disclosure of credit scores
- Fraud alert procedures
- Provision of identity theft information to victims
- Consumer reporting agency information furnisher responsibilities
- Credit or insurance solicitation duties
- Prohibition on sale or transfer of debt caused by identity theft
- Affiliate sharing/marketing
- Disposal of records
- Risk-based pricing
- Protection of medical information
- Credit/debit card number truncation

Certain provisions of the FACT Act became effective earlier this year, and most other provisions will be effective by December 1, 2004. The Federal Trade Commission (FTC) regulates and enforces the FACT Act with respect to FCS institutions. The FACT Act directs the FTC to adopt regulations by December 4, 2004 implementing a number of provisions.

Although several proposed rules are open for comment, the FTC has not yet adopted any substantive final regulations.

Because the FACT Act is complex and compliance obligations are fact-specific, you may wish to consult legal counsel to determine the responsibilities of your institution. You may also contact the FTC with any questions, by toll-free telephone at 1-877-FTC-HELP (382-4357) or by regular mail at:

Federal Trade Commission  
CRC-240  
600 Pennsylvania Ave, NW  
Washington, D.C. 20580

For your convenience, following is a link to the FACT Act as it was enacted and, because the FACT Act amends a number of provisions of the FCRA, a link to the entire FCRA as amended by the FACT Act.

FACT Act:

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108\\_cong\\_public\\_laws&docid=f:publ159.108.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ159.108.pdf)

FCRA:

<http://www.ftc.gov/os/statutes/031224fcra.pdf>

While the Farm Credit Administration (FCA) has no enforcement authority under the FACT Act, after the FACT Act and its implementing regulations become effective, FCA will begin examination under its general authority to protect the safety and soundness of System institutions, as part of its examination under the FCRA.

If you have any questions about this memorandum, please contact Don Clark, Assistant Director, Office of Examination, at (703) 883-4201 (e-mail address [clarkd@fca.gov](mailto:clarkd@fca.gov)) or Jennifer A. Cohn, Senior Attorney, Office of General Counsel, at (703) 883-4020 (e-mail address [cohnj@fca.gov](mailto:cohnj@fca.gov)).