



United States Government Accountability Office
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January 13, 2012

The Honorable Tim Johnson
Chairman
The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Spencer Bachus
Chairman
The Honorable Barney Frank
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Bureau of Consumer Financial Protection: Fair Credit Reporting
(Regulation V)*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Bureau of Consumer Financial Protection (Bureau), entitled "Fair Credit Reporting (Regulation V)" (RIN: 3170-AA06). We received the rule on December 29, 2011. It was published in the *Federal Register* as an interim final rule with request for public comment on December 21, 2011. 76 Fed. Reg. 79,308.

The interim final rule with request for public comment establishes a new Regulation V (Fair Credit Reporting). The rule does not impose any new substantive obligations on persons subject to the existing Fair Credit Reporting Act (FCRA) regulations. The interim final rule substantially duplicates the interagency regulations promulgated under the FCRA by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission (FTC), the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. In addition, the interim final rule substantially duplicates the following FTC regulations: 16 C.F.R. parts 603, 610, 611, 613, 614, and 642, and associated model forms and disclosures. The interim final rule reproduces the above regulations and associated model forms and interpretations with only certain nonsubstantive, technical, formatting, and stylistic

changes. The Bureau believes that recodifying the above agencies' regulations to reflect the transfer of authority to the Bureau will facilitate compliance with the FCRA and its implementing regulations.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule with request for public comment was published on December 21, 2011, and received on December 29, 2011. The rule has a stated effective date of December 30, 2011. Therefore, this rule does not have the required 60-day delay in effective date. However, notwithstanding the 60-day delay requirement, any rule that an agency for good cause finds that notice and comment are impractical, unnecessary, or contrary to the public interest is to take effect when the promulgating agency so determines. 5 U.S.C. §§ 553(d)(3), 808(2). For this rule the Bureau found good cause to conclude that providing notice and comment would be unnecessary and contrary to the public interest in part because the rule is the product of prior notice-and-comment rulemaking to the extent required and the rule does not impose any new, substantive obligations on regulated entities.

Enclosed is our assessment of the Bureau's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Bureau complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Lea Mosena
Attorney, Office of the General Counsel
Bureau of Consumer Financial Protection

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
BUREAU OF CONSUMER FINANCIAL PROTECTION
ENTITLED
"FAIR CREDIT REPORTING (REGULATION V)"
(RIN: 3170-AA06)

(i) Cost-benefit analysis

The Bureau of Consumer Financial Protection (Bureau) conducted an analysis of potential benefits, costs, and impacts of this interim final rule with request for public comment. The Bureau believes that the rule will benefit consumers and covered persons by updating and recodifying Regulation V to reflect the transfer of authority to the Bureau and certain other changes mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Although the interim final rule will require the modification of forms to reflect the transfer of authority to the Bureau, the Bureau determined that the final rule will not impose any new substantive obligations on consumers or covered persons and does not expect the rule to have any impact on consumers' access to consumer financial products and services.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Bureau determined that this interim final rule with request for public comment will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Bureau did not prepare a written statement under the Act for this interim final rule with request for comment as it determined that, as an independent regulatory agency, the requirement did not apply.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The Bureau found good cause to conclude that providing notice and an opportunity for comment would be unnecessary and contrary to the public interest because the

existing Fair Credit Reporting Act (FCRA) regulations were a result of notice-and-comment rulemaking to the extent required. In addition, the interim final rule does not impose any new, substantive obligations on regulated entities. Given the technical nature of these changes, and the fact that the interim final rule does not impose any additional substantive requirements on covered entities, the Bureau determined that an opportunity for prior public comment is unnecessary. Further, the Bureau believes that recodifying the above agencies' regulations to reflect the transfer of authority to the Bureau will help facilitate compliance with the FCRA and its implementing regulations, and the new regulations will help reduce uncertainty regarding the applicable regulatory framework and that using notice-and-comment procedures would delay this process and thus be contrary to the public interest.

The Bureau also found that there is good cause for providing less than 30 days notice for this rule because a delayed effective date would harm consumers and regulated entities by needlessly perpetuating discrepancies between the amended statutory text and the implementing regulation, thereby hindering compliance and prolonging uncertainty regarding the applicable regulatory framework.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The Bureau determined that this interim final rule contains information collection requirements under the Act, all of which have been previously approved by the Office of Management and Budget (OMB). The Bureau further determined that the burden imposed by these requirements is unchanged by this rule. The OMB control number for these information collections is 3170-0002.

Statutory authorization for the rule

The Bureau promulgated this interim final rule with request for comment under the authority of FCRA and the Dodd-Frank Act. Specifically, section 1061 of the Dodd-Frank Act transferred to the Bureau the rulemaking and certain other authorities of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. Section 1088 of the Dodd-Frank Act made conforming amendments to the FCRA.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, the Commission is not subject to the review requirements of the Order.