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February 12, 2010

The Honorable Christopher J. Dodd  
Chairman  
The Honorable Richard C. Shelby  
Ranking Minority Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

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

Subject: *Federal Reserve System and Federal Trade Commission: Fair Credit Reporting Risk-Based Pricing Regulations*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Reserve System and Federal Trade Commission (the agencies), entitled “Fair Credit Reporting Risk-Based Pricing Regulations” (Docket No. R-1316 and RIN: 3804-AA94). We received the rule on January 25, 2010. It was published in the *Federal Register* as final rules on January 15, 2010, with a stated effective date of January 1, 2011. 75 Fed. Reg. 2724.

The final rule generally requires a creditor to provide a risk-based pricing notice to a consumer when the creditor uses a consumer credit report to grant or extend credit to the consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor. The rule also provides for two alternative means by which creditors can determine when they are offering credit on material terms that are materially less favorable. In addition, the rule includes certain exceptions to the general rule, including exceptions for creditors that provide a consumer with a disclosure of the consumer’s credit score in conjunction with additional information that provides context for the credit score disclosure.

Enclosed is our assessment of the agencies’ 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 agencies 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: Linda Robertson  
Assistant to the Board of Governors  
of the Federal Reserve System

Donald C. Clark  
Secretary of the Commission  
Federal Trade Commission

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
FEDERAL RESERVE SYSTEM AND  
FEDERAL TRADE COMMISSION  
ENTITLED  
"FAIR CREDIT REPORTING RISK-BASED  
PRICING REGULATIONS"  
(DOCKET NO. R-1316 AND RIN: 3084-AA94)

(i) Cost-benefit analysis

The Federal Reserve System (the Board) and Federal Trade Commission (the Commission) (collectively, the agencies) analyzed the costs and benefits of this final rule. According to the Commission, the estimated average annual labor cost for all categories of entities covered by this final rule will be \$252,048,000 or \$1,263 per covered entity. The benefits of this final rule identified by the Commission include: (1) educating consumers about the role that their consumer reports play in the pricing of credit; and (2) alerting consumers to the existence of potentially negative information in their consumer reports so that they may check their reports and correct any inaccurate information. The Commission expects more consumers will check their credit reports because of the rule, which will result in improving the accuracy of credit reports generally. Thus, the Commission believes that the benefits of the rule substantially outweigh the costs to those engaged in risk-based pricing.

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

The Board determined that this final rule 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

As independent regulatory and law enforcement agencies, the Board and the Commission are not subject to title II of the Unfunded Mandates Reform Act of 1995.

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

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

The agencies published a proposed rule on May 19, 2008. 73 Fed. Reg. 28,966. The agencies received more than 80 comment letters regarding the proposed rule from

banks and other creditors, industry trade associations, consumer groups, a trade association representing consumer reporting agencies, and others. The agencies responded to comments in the final rule. 75 Fed. Reg. 2727-747.

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

The agencies determined that this final rule contains information collection requirements under the Act. The Commission submitted these information collection requirements to the Office of Management and Budget (OMB) for review and approval under the Act; OMB withheld formal action on the rule pending further review of the joint final rule. The Board, under authority delegated to it by OMB, has approved the implementation of these information collections. The OMB Control Number is 7100-0308. The Board's total estimated annual burden is 1,817,300 hours and the Commission's total estimated annual burden is 14,630,000 hours.

Statutory authorization for the rule

The agencies promulgated this rule under the authority of sections 1681b, 1681c, 1681m, and 1681s of title 15 and sections 3, 214, 216, and 311 of Public Law 108-159.

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

As independent agencies, the Board and the Commission are not subject to the review requirements of the Order.

Executive Order No. 13,132 (Federalism)

As independent agencies, the Board and the Commission are not subject to the review requirements of the Order.