

# THE FINANCIAL SERVICES ROUNDTABLE

*Financing America's Economy*



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**Submitted via [ww.regulations.gov](http://ww.regulations.gov)**

April 14, 2011

Federal Trade Commission  
Office of the Secretary  
Room H-113 (Annex M)  
600 Pennsylvania Ave. NW  
Washington, DC

Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Ave, NW  
Washington, DC 20551

**Re: FCRA Risk-based Pricing Rule Amendments: FTC Project No. R41009  
FRB Docket Nos. R-1407 and R- 1408 and RIN No. RIN 7100-AD66**

Dear Sirs and Mesdames:

The Financial Services Roundtable<sup>1</sup> (“Roundtable”) appreciates the opportunity to comment on the above-referenced notices published by the Federal Trade Commission and the Board of Governors of the Federal Reserve System (collectively the “Agencies”).

The Roundtable would like to commend the Agencies for the dispatch with which they have drafted and proposed these regulatory amendments. Your prompt action has reduced uncertainty about what firms must do to comply with Sections 615(a) and (h) of the Fair Credit Reporting Act as amended by Section 1100F of the Dodd-Frank Act. We urge the Agencies to continue to move quickly so that final regulations will be in place by July 21, 2011, when

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<sup>1</sup> The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America’s economic engine, accounting directly for \$92.7 trillion in managed assets, \$1.1 trillion in revenue, and 2.3 million jobs.

jurisdiction over these regulations transfers to the newly-established Bureau of Consumer Financial Protection. Unless the Agencies act by that date, uncertainty will be re-introduced into the process.

We would like to bring two matters to your attention.

#### Use of a Credit Score

Our members have a practical concern about the situation in which a credit score appears on a credit report obtained by the creditor in connection with the application for credit but the score was not actually used in making the credit decision. Under the proposed regulations and the statute, if a credit score is not, in fact, used by a lender, the credit score disclosures would not be required. However, to prevent ambiguity, it would be helpful if the Agencies indicated that the mere existence of a credit score in a credit file, absent evidence of actual use, does not constitute use.

#### Separate Notices

Many lenders today provide a disclosure of credit scores and supporting information to all applicants, not just those affected by adverse actions or risk-based pricing. Section 1100F's amendment of Section 615 does not explicitly require that the actual adverse action notice itself contain disclosure of the credit score and supporting information, but rather merely that disclosure of the score and supporting information occur. We request that the final regulation make clear that the credit score disclosure with supporting information may be in a separate notice and need not also be incorporated into the actual adverse action notice if the same information has been previously disclosed in the same transaction.

Thank you for this opportunity to express our views. If you have any questions about these issues feel free to contact either me or my colleague Anne Wallace ([Anne@fsround.org](mailto:Anne@fsround.org)) at 202-589-1936.

Very truly yours,

*Richard M. Whiting*

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