

# FEDERAL RESERVE BANK OF SAN FRANCISCO

101 MARKET STREET, SAN FRANCISCO, CALIFORNIA

June 24, 2005

## **BANKING SUPERVISION AND REGULATION: INTERIM FINAL RULES ON MEDICAL INFORMATION**

To State Member Banks, Bank  
Holding Companies, U.S. Branches  
and Agencies of Foreign Banks,  
and Others Concerned,  
in the Twelfth Federal Reserve District

### **Agencies Issue FACT Act Interim Final Rules on Medical Information (Docket R-1188)**

The federal bank, thrift, and credit union regulatory agencies have issued interim final rules under the Fair Credit Reporting Act (FCRA) that create exceptions to the statutory prohibition against obtaining or using medical information in connection with credit eligibility determinations. The interim final rules also address the sharing of medically related information among affiliates. The effective date for these rules was March 7, 2006.

Section 411 of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) amended the FCRA to provide that a creditor may not obtain or use medical information in connection with any determination of a consumer's eligibility, or continued eligibility, for credit, except as permitted by regulations or the FACT Act. However, the FACT Act also requires the agencies to prescribe regulations that permit creditors to obtain and use medical information for credit eligibility purposes when necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs. A proposed rule was published for comment on April 28, 2004.

The interim final rules create exceptions to the general statutory prohibition on obtaining and using medical information. The provisions are similar to those contained in the proposed rule and include exceptions for the use of medical information that is also financial information typically considered in credit underwriting. As authorized by the FACT Act, the agencies have expanded the scope of the rules so that the exceptions will apply to all creditors, not just to creditors ordinarily regulated by one of the agencies.

Section 411 of the FACT Act also amended the FCRA to limit the ability of creditors and others to share medically related information among affiliates, except as permitted by the statute, regulation, or order. The interim final rules specify the circumstances in which creditors may share medically related information among affiliates without becoming consumer reporting agencies.

The rules are being issued as interim final rules to allow for public comment on their expanded scope. The agencies request comment by **July 11, 2005**.

### **Additional Information**

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's Internet site, at <http://www.frbsf.org/banking/letters>.

For additional information about the interim final rule, please contact our Banking Supervision and Regulation Department at (415) 974-3028.

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[Attachment: Docket R-1188](#)