

NOTICE

WBA 1003(FACT) FACT Act Addendum To Uniform Residential Loan Application

On April 1, 2006, new rules relating to the FACT Act go into effect. These rules impact loan applications. The **F/F 1003/65 Uniform Residential Loan Application** has not been revised by Fannie Mae and Freddie Mac. In addition, the **WBA 130 Uniform Residential Loan Application** has not been revised, as it is based upon the F/F 1003/65.

FIPCO has been in contact with Fannie Mae and Freddie Mac to determine the reason why the F/F 1003/65 has not been revised; however no answer has been provided yet. Until Fannie Mae and Freddie provide a response, FIPCO is providing the **WBA 1003 (FACT) Addendum** as a model form which may be used in connection with these application documents to comply with the new FACT rules described in detail below.

(Note: The WBA 130 General Credit Application and 130S Short Form Credit Application have been revised to accommodate these new rules and are currently available.)

Information pertaining to the revised FACT Act regulations:

The Fair and Accurate Credit Transactions Act of 2003 (FACT Act) amended the Fair Credit Reporting Act (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. The FACT Act requires the federal regulators to prescribe regulations that permit creditors to obtain and use medical information for credit eligibility purposes when necessary and appropriate to protect legitimate operations, transactional, risk, consumer and other needs. The new rules, which take effect April 1, 2006, generally permit creditors to obtain and use medical information that is typically considered in credit underwriting.

"Medical information". Under the FACT Act, "medical information" is defined broadly, to include information, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to:

- The past, present or future physical, mental or behavioral health or condition of an individual;
- The provision of health care to an individual; or
- The payment for the provision of health care to an individual.

However, "medical information" as defined by the FACT Act does not include:

- The age or gender of the consumer;
- Demographic information about the consumer, including a consumer's residential or email address;
- Any other information about a consumer that does not relate to the physical, mental or behavioral health or condition of a consumer, including the existence or value of any insurance policy; or
- Information that does not identify a specific consumer.

Financial information exception for obtaining and using medical information.

The new rules create exceptions to the general prohibition in the FACT Act against obtaining or using medical information in connection with credit eligibility determination.

The exceptions are:

- If the information is of the type routinely used in making credit eligibility determinations, such as information relating to debts, expenses, income, benefits, assets, collateral or the purpose of the loan, including the use of proceeds.
- If the creditor uses the medical information in a manner and to an extent that is no less favorable than it would use comparable information that is not medical information in a credit transaction.
- If the creditor does not take the consumer's physical, mental or behavioral health, condition or history, type of treatment or prognosis into account as part of any such credit eligibility determination.

Note that there are several types of information which the regulations specify as routinely used in making credit eligibility determinations, and which are therefore permissible for a creditor to obtain and use:

- The dollar amount, repayment terms, repayment history and similar information regarding medical debts to calculate, measure or verify the repayment ability of the consumer, the use of proceeds, or the terms for granting credit;
- The value, condition and lien status of a medical device that may serve as collateral to secure a loan;
- The dollar amount and continued eligibility for disability income or benefits related to health or medical condition that is relied upon as a source of repayment; or
- The identity of creditors to whom outstanding medical debts are owed in connection with an application for credit, including but not limited to, a transaction involving the consolidation of medical debts.

Sharing medical information with affiliates.

Although the new regulations create limited exclusions from the term "consumer report" and allow some types of medically-related information to be shared with affiliates, these exclusions do not include:

- "Medical information";
- An individualized list or description based on the payment transactions of the consumer for medical products or services; or
- An aggregate list of identified consumers based on payment transactions for medical products or services.

Sharing this type of information with affiliates would leave your institution vulnerable to classification as a "consumer reporting agency" by federal regulators, and would result in mandatory compliance with many requirements from which financial institutions are ordinarily exempt.

Interpretation of these new regulations involves complicated legal issues, and the advice of legal counsel should be obtained if questions arise.

The attached form is a "MODEL" form and may be printed and duplicated or contact customer service at 1-800-722-3498 ext. 222 for a copy.

FIPCO

FACT ACT ADDENDUM TO UNIFORM RESIDENTIAL LOAN APPLICATION

Applicants: _____

This Addendum supplements and is made a part of the attached Uniform Residential Loan Application.

We acknowledge that income from medical insurance, disability or wage continuation insurance need not be revealed in the description of other income on page 2 of the Uniform Residential Loan Application unless we choose to have it considered as a basis for repaying this loan.

The extent to which parties may verify, reverify or obtain any information or data relating to the Loan according to the Acknowledgement on page 3 of the Uniform Residential Loan Application may be limited by applicable Federal Law.

Dated _____

Applicant Signature

Co-Applicant Signature

Co-Applicant Signature

Co-Applicant Signature