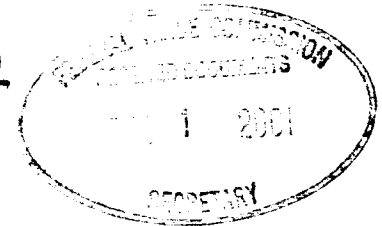


ASSOCIATION OF BANKS-IN-INSURANCE

E. Kenneth Reynolds, Executive Director

January 31, 2001

ORIGINAL



Via courier

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Proposed interpretations of Fair Credit Reporting Act
65 Fed. Reg. 80,802 (Dec. 22, 2000)

Dear Sir or Madam:

The Association of Banks in Insurance¹ provides the following comments concerning the proposed interpretations.

Section 3(k) of the proposed interpretations defines the term "opt out information" as not including "transaction or experience information." That exclusion is derived from one of the exclusions from the definition of "consumer report" set forth in the Fair Credit Reporting Act ("FCRA").² Under the current interpretations, the phrase "transaction or experience information" has not been adequately defined. The current interpretations appear to provide only one example of what would not be considered to be transaction or experience information, specifically "a creditor's or an insurance company's report for the reasons it canceled credit or insurance, based on information from an outside source." (Refer to 12 C.F.R. Part 600, App., para. 7A(2), interpreting FCRA § 603(d).)

But what about information obtained from the customer? If a customer applies for a bank loan and completes a loan application, is any of that information considered to be transaction or experience information? What about information contained in an

¹ The mission of the Association of Banks in Insurance is to advance the legal and marketing capability of financial institutions to offer insurance services to their customers. The ABI is made up of banks, bank holding companies, insurance companies, marketing firms, consultants, and other organizations active in supporting the process of offering insurance services to bank customers. ABI's 200 member organizations have assets totaling in excess of \$3 trillion and employ over 30,000 licensed insurance agents.

² 15 U.S.C. § 1681a(d)(2)(A)(i).

insurance application? Does it depend on the nature of the information contained in the application, or does it depend totally on the source of the information? Also, how does “transaction” information differ from “experience” information (if at all)?

The Federal Trade Commission has issued several Staff Opinion Letters on the FCRA, including one that is helpful for this issue (Letter from Thomas E. Kane to Michael R. Novak, dated Sept. 9, 1998). But because transaction or experience information is such an important exclusion from the definition of consumer report, more guidance on this issue is needed.

The preamble to the proposed interpretations also asks whether the phrase “opt out information” would result in confusion with the “opt out” requirements under the Gramm-Leach-Bliley Act’s privacy regulations. We believe there would be confusion and agree with the proposed solution that the term “FCRA opt out information” be used instead.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Kenneth Reynolds". The signature is fluid and cursive, with a large initial "E" and "R".

E. Kenneth Reynolds
Executive Director