

# REGULATORY ALERT

NATIONAL CREDIT UNION ADMINISTRATION  
1775 DUKE STREET, ALEXANDRIA, VA 22314

**DATE:** August 2001

**NO:** 01-RA-09

**TO:** All Federal Credit Unions

**SUBJECT:** Use of Consumer Credit Reports for Business Loans

Staff from the Federal Trade Commission (FTC) recently reconsidered a prior interpretation of the Fair Credit Reporting Act (FCRA) concerning the use of consumer credit reports in certain business loan situations. The revised interpretation affects credit unions extending credit to an individual for business purposes or to a closely held business.

Previously, FTC staff stated that a financial institution could not obtain a consumer report on the guarantor of a business loan without the specific written consent of the individual under Section 604 of the FCRA.

Subsequently, FTC staff determined that when an individual is or will be personally liable for repayment of a loan for business purposes, such as an individual proprietor, co-signer, or guarantor, the loan may be viewed as a consumer transaction. Therefore, a credit union may obtain a consumer credit report under Section 604(a)(3)(A) of the FCRA in these situations.

Credit unions may not obtain a consumer report on an individual for an extension of credit for a business purpose unless the individual is personally liable for payment. Therefore, there would not be a permissible purpose under Section 604 of the FCRA to obtain a consumer report on an individual, such as a shareholder, director, or officer of a corporation who neither guarantees nor signs the loan, nor is an individual proprietor liable for the loan.

Credit unions should carefully review their practices for obtaining consumer reports in relation to business loans to ensure compliance with the FCRA for the permissible use of consumer credit reports.

A copy of the FTC's informal staff letter, dated June 22, 2001, is available at <http://www.ftc.gov/os/statutes/fcra/tatelbaum2.htm>.

Sincerely,

/s/

Dennis Dollar  
Acting Chairman