



---

**Law Department**

Steven L. Franks  
Senior Counsel  
9111 Duke Boulevard  
Mason, Ohio 45040  
Office: (513) 573-2743  
Fax: (513) 573-7797  
Email: [steven.franks@macys.com](mailto:steven.franks@macys.com)

April 11, 2011

To the Federal Reserve Board:

Thank you for the opportunity to respond to the proposed rule, Docket No. R-1408, amending Regulation B, which implements the Equal Credit Opportunity Act, and the sample notification forms for the regulation. These comments are on behalf of Macy's, Inc., one of the nation's premier retailers, with fiscal 2010 sales of \$25 billion. The company operates 810 Macy's department stores and furniture galleries, 41 Bloomingdale's stores, active retail websites, and employs a diverse workforce of 161,000 employees. These comments are also on behalf of FDS Bank, a Federal Savings Bank located in Mason, Ohio and an issuer of private label retail credit cards to Macy's and Bloomingdale's customers.

We understand that the proposed rulemaking is a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act, however, we appreciate the opportunity to share with the Board several of our concerns with this proposal. Mainly, we are concerned that aspects of this proposal will confuse our customers and result in customers expecting explanations about their credit score that we are unable to provide.

We think that the scope of scores that are considered credit scores has the potential to seriously confuse consumers. In the consumer marketplace, it is generally the credit score created by Fair Isaac Corporation (FICO Score) and the associated score range that is marketed to consumers. Generally, consumers may have a vague understanding that a score of 680 or higher is considered a “good” score. Of course, each lender determines acceptable scores based on their individual risk criteria. Other credit scores, such as the Vantage score or a proprietary credit score developed by a credit grantor, will have different ranges than the FICO Score. Disclosing those scores and ranges to a consumer will likely have little value for the average consumer.

We believe another area of confusion can be found in Section 609(f) of the Fair Credit Reporting Act. The Board intends that a creditor should give, “[U]p to four key factors that adversely affected the consumer’s credit score (or up to five factors if the number of enquiries made with respect to that consumer report is one of the factors).” Unfortunately, the term “key factors” in the FCRA is not defined as one might anticipate based on the common usage of the adjective “key.” One might expect this to reference those characteristics having the greatest negative impact on the score. However, the term “key factors” is defined in Section 609(f)(2)(B) to mean, “[A]ll relevant elements or reasons adversely affecting the credit score for the particular individual, listed in the order of their importance based on their effect on the credit score.” Thus, if “number of enquiries” is a “key factor” as defined under the FCRA, it must be listed in the adverse action letter as one of the factors that impacted the credit score.

As an example, imagine that there are ten factors that negatively impacted a particular consumer’s credit score. The tenth factor, meaning it had the least negative impact on the credit score, is “number of enquiries.” The top four factors may have

lowered the score by 50 points and “number of enquiries” may have lowered the score by one point, but it must be listed along with up to four other key factors affecting the consumer’s score. We fail to understand how this policy is beneficial to a consumer and we believe it has the potential to create unnecessary angst for the consumer. In this example, we cannot see how adding “number of enquiries” was beneficial to the consumer.

Perhaps, at some point, it was determined that “number of enquiries” was consistently one of the top four factors adversely impacting a credit score and the goal was to provide additional relevant information to a consumer in the situation that “number of enquiries” was one of the top four factors. In that situation, advising the consumer of the fifth factor may give a consumer useful information about factors impacting their credit score. We ask the Board to consider that allowing up to five factors that negatively impacted a credit score makes sense if “number of enquiries” is one the top four key factors after they are listed in the order of their importance based on their effect on the credit score.

The current FCRA disclosure in adverse action letters indicates that when a credit report was used in making the credit decision, the reporting agency played no part in the credit decision and is unable to supplied specific reason why credit was denied. This statement was intended to reduce the number of customer inquiries to credit reporting agencies that should be directed to the credit grantor. We request that the Board consider a similar optional notice for those situations where a credit grantor is disclosing a credit score that was purchased from a credit reporting agency. In that situation, the credit grantor is unable to provide the consumer with information about how their credit score

was calculated. As such, it would be helpful to all parties if the consumer was directed to contact the credit reporting agency with any concerns about their credit score.

Finally, we ask the Board to consider whether it would be appropriate to include additional versions of language for adverse action letters where a proprietary credit score is created by a credit grantor exclusively from credit report data. In that case, the score is not obtained from a consumer reporting agency and the proposed language is not appropriate.

We hope that our comments are clear on the proposed rule, Docket No. R-1408, amending Regulation B and the sample notification forms. However, we would be pleased to discuss any of our comments with the Board at your convenience. Again, we thank the Board for the opportunity to comment on the proposed rule and we appreciate your review of our comments.

Sincerely,

Steven L. Franks  
Senior Counsel, Macy's, Inc.