



New FACT Act Rule Takes Effect November 1, 2008

The following information is intended for information purposes only and is not meant to replace your company's legal department or advisors. As always, ESS urges clients to consult with its own legal counsel regarding specific situations and legal questions.

Background on the FACT Act

The Fair and Accurate Credit Transactions Act, or FACT Act was originally signed into law in 2003 adding various provisions to the Fair Credit Reporting Act (FCRA). The thrust of the Act is to promote identity theft prevention. Most of the Act's provisions apply directly to nationwide consumer-reporting agencies such as the three credit bureaus and to financial institutions and other creditors that keep consumer accounts in the normal course of business. More broadly, some sections of the Act pertain to other consumer-reporting agencies (CRA's) such as ESS and its Users

Existing FACT Act Requirements

The following is a summary of the existing FACT Act requirements for CRA's:

- ✓ CRA's must block information from a consumer report if requested by the consumer. The consumer must provide proof of identity theft as defined in the FACT Act;
- ✓ CRA's must provide information to a consumer who is a victim of identity theft on how to contact the FTC and nationwide consumer-reporting agencies (the three credit bureaus) to obtain information about alerts;
- ✓ CRA's must relay a "Notice of Address Discrepancy," to the User **if** the notice is issued by a nationwide consumer-reporting agency (three credit bureaus). Before the notice is issued, the nationwide consumer-reporting agency must determine if the address submitted by the User "substantially differs" from the address in the consumer's file.*

New FACT Act Requirements Effective November 1, 2008

If you access credit reports and **if** you receive a Notice of Address Discrepancy either through ESS or directly from a credit bureau, the new requirements state:

- ✓ User must "*develop and implement reasonable policies and procedures designed to enable the user to form a reasonable belief that a consumer report relates to the consumer about who it has requested the report.*"
- ✓ User must resolve the discrepancy between the address provided by the consumer and the discrepant address listed on the Notice of Address Discrepancy.

Please contact ESS with any questions. For additional information on the FACT Act, please refer to the following links:

- http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ159.108.pdf
- <http://www.ftc.gov/os/fedreg/2007/november/071109redflags.pdf>

**With respect to credit reports, ESS is considered a "re-seller" of a consumer report. ESS would not issue the Notice of Address Discrepancy since we do not maintain consumer account information from which to compare a consumer's (applicant/employee's) address at the time of a new ESS report request. Address history information contained in ESS's SSN Trace Report is not considered applicable since this information is generated through third party databases and not through an existing consumer file maintained by ESS.*