SmartSuite

Framework / Privacy / Global Privacy Regulations

Fair and Accurate Credit Transactions Act of 2003 (FACTA) — Pub. L. 108-159

FACTA (Pub. L. 108-159, December 4, 2003) amended the Fair Credit Reporting Act with fraud alerts, receipt truncation, the Red Flags Rule, free annual reports, disposal and furnisher duties.



What it is

The Fair and Accurate Credit Transactions Act of 2003 (FACTA), Pub. L. 108-159, 117 Stat. 1952, is the U.S. federal law, enacted December 4, 2003, that amended the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) to add identity theft protections and new duties for consumer reporting agencies, lenders, card acceptors, furnishers and every business that holds consumer report information. Its best-known provisions are the fraud alerts of section 112, the receipt truncation rule of section 113, the Red Flags guidelines of section 114, the free annual report of section 211, the affiliate marketing opt-out of section 214, the disposal duty of section 216, the risk-based pricing notice of section 311 and the furnisher accuracy rules of section 312.

At a glance

PUBLISHER
U.S. Congress; rules by the FTC, the CFPB and the federal banking agencies

TYPE
Regulation

VERSION
Pub. L. 108-159 (117 Stat. 1952), amending the Fair Credit Reporting Act

EFFECTIVE
December 4, 2003 (provisions phased in under section 3 and the implementing rules; Disposal Rule June 1, 2005)

DOMAIN
Privacy

FAMILY
Global Privacy Regulations

REGION
United States

INDUSTRY
Financial Services

ADOPTION MODEL
Regulatory Compliance

IMPLEMENTATION COMPLEXITY
Medium

Source: govinfo.gov/app/details/PLAW-108publ159

Why it matters

- **Identity Theft Prevention Program** Section 114 and 16 CFR 681.1(d) require a written program to identify, detect and respond to Red Flags and to update itself periodically.
- **Receipt truncation** Section 113 (15 U.S.C. 1681c(g)) bars printing more than the last five digits of the card number or the expiration date on electronically printed receipts.
- **Proper disposal** Section 216 (15 U.S.C. 1681w) and 16 CFR 682.3 require reasonable measures against unauthorized access to consumer information when it is discarded.
- **Consumer rights honored** Fraud and active duty alerts (section 112), free annual reports through the centralized source (section 211) and the affiliate marketing opt-out (section 214) create duties a business must build into its processes.

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How SmartSuite supports FACTA

FACTA Requirements Library

Load sections 112, 113, 114, 211, 214, 216, 311 and 312 and the 16 CFR 681 and 682 provisions as requirements with owners, implementation status and linked evidence.

Covered Account Risk Assessment

Record the 16 CFR 681.1(c) determination of covered accounts, the account opening and access methods considered and prior identity theft experience, with the review date.

Identity Theft Prevention Program

Maintain the written program of 681.1(d): the Red Flags identified, detection procedures, response actions, periodic updates, board approval and training records.

Disposal Controls and Vendor Due Diligence

Track disposal policies, destruction records and the due diligence on disposal contractors that 16 CFR 682.3(b)(3) describes, using Third Party Risk Management for the vendors.

Furnisher and Dispute Procedures

Hold the section 312 accuracy and integrity procedures, dispute handling timelines and risk-based pricing notice triggers with the records each produces.

Examination Readiness Reporting

Report by section and rule on control status, open Red Flag incidents and remediation for the FTC, the CFPB or a banking agency examination, using Internal Audit Management for the testing.

Common framework mappings

CIS Controls v8.1 · COBIT 2019 · GLBA Safeguards Rule (16 CFR Part 314) · HIPAA · ISO 27001:2022 · NIST CSF 2.0 · NIST 800-53 Rev.5 · PCI DSS 4.0.1 · SOC 2

Official resources

U.S. FACTA Compliance Guidance

Provides regulatory guidance on compliance with the Fair and Accurate Credit Transactions Act.

consumerfinance.gov/rules-policy/regulations/1022

Identity Theft Rules (16 CFR Part 681, Red Flags Rule)

The FTC's Red Flags Rule requiring financial institutions and creditors to run an identity theft prevention program.

ecfr.gov/current/title-16/chapter-I/subchapter-F/part-681

Fair and Accurate Credit Transactions Act of 2003 (Pub. L. 108-159)

The enacted statute as published by the Government Publishing Office.

govinfo.gov/content/pkg/PLAW-108publ159/pdf/PLAW-108publ159.pdf

Frequently asked questions

Who must have an Identity Theft Prevention Program under FACTA?

Section 114 directed the agencies to require each financial institution and creditor to adopt policies and procedures implementing Red Flag guidelines. Under 16 CFR 681.1 a financial institution or creditor under FTC enforcement must periodically determine whether it offers or maintains covered accounts, consumer accounts designed for multiple payments or transactions and any other account with a reasonably foreseeable identity theft risk, and if so must develop a written program approved by its board or a senior manager that identifies relevant Red Flags, detects them, responds appropriately and is updated periodically (681.1(c) to (e)). The Red Flag Program Clarification Act of 2010 changed the definition of creditor the rule uses.

What does FACTA require on credit card receipts?

Section 113 added FCRA section 605(g) (15 U.S.C. 1681c(g)): no person that accepts credit or debit cards may print more than the last five digits of the card number or the expiration date on any receipt provided to the cardholder at the point of sale. The rule applies only to electronically printed receipts, not to handwritten or imprinted records, and was phased in one year after enactment for machines first used on or after January 1, 2005 and three years after enactment for machines already in use.

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What is the FACTA Disposal Rule?

Section 216 added FCRA section 628 (15 U.S.C. 1681w), directing the agencies to require proper disposal of consumer information derived from consumer reports. The FTC's rule, 16 CFR Part 682, effective June 1, 2005, applies to any person under FTC jurisdiction that maintains consumer information for a business purpose and requires reasonable measures against unauthorized access or use in connection with disposal; 682.3(b) gives examples: burning, pulverizing or shredding paper, destroying or erasing electronic media, and due diligence on a disposal contractor. Financial institutions under the GLBA Safeguards Rule fold disposal into their information security program (682.3(b)(5)).

How long does a FACTA fraud alert last?

Section 112 added FCRA section 605A (15 U.S.C. 1681c-1). As enacted, an initial fraud alert lasted not less than 90 days; Pub. L. 115-174 of May 24, 2018 changed that to not less than one year. An extended alert for a consumer who submits an identity theft report lasts seven years, and active duty alerts are available to service members. The consumer reporting agency that receives the request must refer it to the other nationwide agencies, and a consumer who places an alert may obtain free file disclosures.

Which agencies write and enforce FACTA's rules?

FACTA assigned its rulemaking to the federal banking agencies, the National Credit Union Administration and the Federal Trade Commission, with the Securities and Exchange Commission joining for the Disposal Rule (sections 114, 216 and 312), and section 3 required the Federal Reserve Board and the FTC to set effective dates by joint regulation. Today the FTC keeps the Red Flags Rule (16 CFR Part 681) and the Disposal Rule (16 CFR Part 682) for entities under its jurisdiction, and the Consumer Financial Protection Bureau's Regulation V (12 CFR Part 1022) implements the Fair Credit Reporting Act for the other FACTA provisions.

License included / downloadable: Yes FACTA is a U.S. federal law published free by the Government Publishing Office, and 16 CFR Parts 681 and 682 are published free in the Code of Federal Regulations; the platform links to the official texts.

Full framework page and mappings: smartsuite.com/frameworks/us-facta-fair-and-accurate-credit-transactions-act