

On May 4, 1990, the Commission included in the final version of its Commentary on the FCRA (16 CFR part 600) a sentence in Comment 7 to Section 609 that adopted the position taken by an informal August 1988 staff opinion letter that the provision did not require disclosure of risk scores (55 FR 18804, 18822).

On February 11, 1992, the Commission reversed its position by publishing a notice in the **Federal Register** changing the sentence in Comment 7 to state the view that the provision required disclosure of risk scores, effective immediately (57 FR 4935). The Commission based its reversal on (1) Its subsequent investigations, which indicated that some credit report users got only a risk score, and (2) the legislative history of the FCRA, in particular a statement by Representative Leonor Sullivan that credit bureaus should have to disclose information "in any form which would be relayed to a (bureau client) in making a judgment as to the worthiness of the individual's application . . ." 116 Cong. Rec. 36572 (Oct. 12, 1970).

After the Commission amended the FCRA Commentary, several industry representatives requested clarification of the revision. Three principal issues arose concerning the applicability of the FCRA to risk scores: (1) When a consumer reporting agency must disclose a risk score, (2) what score(s) must be disclosed, and (3) what type of explanation of the score must be provided as part of the disclosure.

On June 17, 1994, the Commission published for public comment a proposed revision to the FCRA Commentary addressing these issues (59 FR 31176). The proposal, this time styled as an additional Comment 12 to Section 609, maintained the position set forth by the Commission in its February 1992 revision that risk score disclosure was required; it specified that the score needed to be computed and reported only as of the date of the consumer's disclosure request, that disclosure was required regardless of whether a credit bureau or a creditor created (or owned) the scoring system used to calculate the numerical score, and that only a brief explanation was required. In addition, it posed a number of questions on which it requested public comment.

Eighty parties responded with written submissions for Commission consideration. On the industry side, the record includes extensive comments filed by or on behalf of credit bureaus that supply risk scores, creditors who purchase and use such scores, and the companies that prepare scoring systems that they use to produce them.

Consumer interests were represented by a consortium of state Attorney General offices and a major national consumer advocacy group, among others.

**Summary of Comments and Final Interpretation**

The industry commenters argued strongly that section 609 does not literally require the disclosure of risk scores. They contended that a credit bureau's risk score is not "information \* \* \* in its files \* \* \* at the time of the request" but rather is a system of analyzing that information for the credit bureau's client. For a fee, the credit bureau applies a statistical "model" to the information in its files and (generally combined with a full credit report) provides the resulting number ("score") to its client. The score does not exist in the file until that function is performed, and is not retained by the credit bureau after it is provided to the bureau's client.

The industry commenters also argued that the disclosure of risk scores would be costly to the credit-granting and credit-reporting industries, and further contended that the benefits to the public were uncertain and (if they existed at all) far outweighed by the costs. Finally, they noted that consumers already have access to information much more significant than a numerical score—the underlying information in the credit file (under Section 609) and a statement of the reasons why any user rejected their credit applications (under the Equal Credit Opportunity Act ("ECOA") and its implementing Regulation B).

The consumer representatives emphasized the quote from Rep. Sullivan on which the Commission had relied in its February 1992 opinion. They pressed the view that it is only fair for consumers to have risk scores if credit bureau users are receiving them, and contended that consumers should not be deprived of disclosure of risk scores simply because credit bureaus do not retain them.

Based on the comments, the Commission has decided to reinstate its original position that Section 609 does not require a credit bureau to disclose risk scores because they are not "information . . . in its files on the consumer at the time of the request" by the consumer for file disclosure. Section 603(g) defines the term "file" to mean "all of the information on (the) consumer *recorded and retained* by a consumer reporting agency regardless of how the information is stored." (Emphasis added). In analyzing the application of Section 609 to a risk score, the Commission has considered the process involved in generating a risk

score. The comments indicate that a risk score is not "recorded and retained" by the credit bureau; rather it is produced when the bureau applies the scoring model to the actual data in the consumer's credit history and provides the resulting numerical score to its client who pays to have that function performed by the bureau. In addition to not being in the credit bureau "files", the score does not even exist "at the time of the request."

**List of Subjects in 16 CFR Part 600**

Credit, Trade practices.

For the reasons set out in the preamble, the Commission amends Title 16, Chapter I, Part 600 of the Code of Federal Regulations as follows:

**PART 600—STATEMENT OF GENERAL POLICY OR INTERPRETATIONS**

1. The authority citation for Part 600 continues to read as follows:

**Authority:** 15 U.S.C. 1681s and 16 CFR 1.73.

2. In the appendix to Part 600, the Commission amends Section 609 by revising comment 7 and adding a new comment 12, to read as follows:

**Appendix—Commentary on the Fair Credit Reporting Act**

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Section 609—Disclosures to Consumers

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7. Ancillary Information.

A consumer reporting agency is not required to disclose information consisting of an audit trail of changes it makes in the consumer's file, billing records, or the contents of a consumer relations folder, if the information is not from consumer reports and will not be used in preparing future consumer reports. Such data is not included in the term "information in the files" which must be disclosed to the consumer pursuant to this section. A consumer reporting agency must disclose claims report information only if it has appeared in consumer reports.

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12. Risk Scores.

A consumer reporting agency is not required to disclose a risk score (or other numerical evaluation, however named) that is provided to the agency's client (based on an analysis of data on the consumer) but not retained by the agency. Such a score is not information "in (the agency's) files at the time of the request" by the consumer for file disclosure.

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By direction of the Commission.

**Donald S. Clark,**  
Secretary.

[FR Doc. 95-21789 Filed 8-31-95; 8:45 am]

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Assistant Secretary for Public and Indian Housing**

**24 CFR Parts 882, 887, 982, and 983**

[Docket No. FR-2294-N-03]

RIN 2577-AB14

**Section 8 Certificate and Voucher Programs Conforming Rule; Announcement of Effective Date and OMB Approval Number**

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Announcement of effective date and OMB approval number to final rule.

**SUMMARY:** On July 3, 1995 (60 FR 34660), the Department published in the *Federal Register*, a final rule that combined and conformed rules for tenant-based rental assistance under the rental certificate and the rental voucher programs. The rule also amended requirements for project-based assistance under the rental certificate program.

The effective date section of that rule indicated that before the rule could become effective, the information collections contained in the rule must be reviewed and approved by the Office of Management and Budget (OMB), as required under the Paperwork Reduction Act of 1980. Since OMB has completed this process, the purpose of this document is to announce the effective date of the final rule, and also to announce the OMB approval number.

**EFFECTIVE DATE:** October 2, 1995.

**FOR FURTHER INFORMATION CONTACT:** Madeline Hastings, Director, Rental Assistance Division, Room 4204, Telephone numbers (202) 708-2841 (voice); (202) 708-0850 (TDD). (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** On February 24, 1993 (58 FR 11292), HUD published a comprehensive proposed rule to combine and conform the rules for tenant-based Section 8 rental assistance under the certificate and voucher programs. The matrix, contained in the preamble of that proposed rule (60 FR 11318), identified information collection requirements in §§ 982.53, 982.102, 982.151, 982.302, 982.305, 982.404, and 982.406.

The July 3, 1995 final rule contained additional information requirements from those mentioned above in §§ 982.52, 982.54, 982.153, 982.155, 982.156, 982.157, 982.158, 982.159, 982.160, 982.206, 982.301, 982.303,

982.304, 982.307, 982.310, 982.352, 982.403, 982.452, 982.455, 982.551, 982.552, 982.554, 982.555, 983.3, 983.12, 983.51, 983.52, 983.54, 983.55, 983.57, 983.103, 983.104, 983.151, 983.202, 983.203, 983.205, and 983.207.

A proposed information collection notice published simultaneously in the *Federal Register* on July 3, 1995 (60 FR 34729), with the final rule identified the numbers of the Forms to be used for submission of information to the Department.

This document announces the effective date of the July 3, 1995 final rule, and announces the approval number received from the Office of Management and Budget for these programs.

**List of Subjects**

*24 CFR Part 882*

Grant programs—housing and community development, Homeless, Lead poisoning, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

*24 CFR Part 887*

Grant programs—housing and community development, Rent subsidies, Reporting and recording requirements.

*24 CFR Part 982*

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

*24 CFR Part 983*

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, and under the Secretary's authority of 42 U.S.C. 3535(d), the final rule, "Section 8 Certificate and Voucher Programs Conforming Rule", published July 3, 1995 (60 FR 34660) that amended 24 CFR Parts 882, 887, 982, and 983, is effective October 2, 1995. 24 CFR Parts 982 and 983 are further amended by adding the OMB approval number, as follows:

**PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM**

1. The authority citation for part 982 continues to read as follows:

**Authority:** 42 U.S.C. 1437f and 3535(d).

§§ 982.52–982.54, 982.102, 982.151, 982.153, 982.155–982.160, 982.206, 982.301–982.305, 982.307, 982.310, 982.352, 982.403–982.404, 982.406, 982.452, 982.455, 982.551–982.552, 982.554–982.555 [Amended]

2. Sections 982.52, 982.53, 982.54, 982.102, 982.151, 982.153, 982.155, 982.156, 982.157, 982.158, 982.159, 982.160, 982.206, 982.301, 982.302, 982.303, 982.304, 982.305, 982.307, 982.310, 982.352, 982.403, 982.404, 982.406, 982.452, 982.455, 982.551, 982.552, 982.554, and 982.555 are amended by adding at the end of each section the phrase, "(Approved by the Office of Management and Budget under control number 2577-0169)".

**PART 983—SECTION 8 PROJECT-BASED CERTIFICATE PROGRAM**

3. The authority citation for part 983 continues to read as follows:

**Authority:** 42 U.S.C. 1437f and 3535(d).

§§ 983.3, 983.12, 983.51–983.52, 983.54–983.55, 983.57, 983.103–983.104, 983.151, 983.202–983.203, 983.205, 983.207 [Amended]

4. Sections 983.3, 983.12, 983.51, 983.52, 983.54, 983.55, 983.57, 983.103, 983.104, 983.151, 983.202, 983.203, 983.205, and 983.207 are amended by adding at the end of each section the phrase, "(Approved by the Office of Management and Budget under control number 2577-0169)".

Dated: August 28, 1995.

**Joseph Shuldiner,**

*Assistant Secretary for the Office of Public and Indian Housing.*

[FR Doc. 95-21719 Filed 8-31-95; 8:45 am]

BILLING CODE 4210-33-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[TD 8617]

RIN 1545-AS58; 1545-AT13

**Accuracy-Related Penalty**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations implementing changes to the accuracy-related penalty under section 6662 of the Internal Revenue Code of 1986 that were made by section 13251 of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993) and Title VII of the Uruguay Round Agreements Act, implementing the Uruguay Round of the General Agreement on Tariffs and Trade