WISCONSIN BANKERS ASSOCIATION

April 14, 2011

VIA EMAIL

Ms. Jennifer J. Johnson
Secretary
Board of Governors
of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
regs.comments@federalreserve.gov

Mr. Donald S. Clark
Federal Trade Commission
Office of the Secretary
Room H-113 (Annex M)
600 Pennsylvania Ave., NW
Washington, DC 20580
www.regulations.gov

RE: FCRA Risk-Based Pricing Rule Amendments—Docket No. R-1407 RIN 7100-AD66 (FRB); RIN/Project Number R411009 (FTC)

Dear Ms. Johnson and Mr. Clark:

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 300 state and nationally chartered banks, savings banks, and savings and loan associations located in communities throughout the state. WBA appreciates the opportunity to comment on the proposed amendments to risk-based pricing rules set forth by the Board of Governors of the Federal Reserve System (FRB) and the Federal Trade Commission (FTC), (collectively, the Agencies). The revisions to the rules are being proposed due to statutory amendments made by section 1100F of the Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA) to section 615(h) of the Fair Credit Reporting Act (FCRA).

Specifically, section 1100F of DFA amends section 615(h) of FCRA to include the following additional information in the general risk-based pricing notice, when the credit score of the consumer to whom a person grants, extends or otherwise provides credit is used in setting the material terms of credit: (1) a numerical credit score used in making the credit decision; (2) the range of possible scores; (3) the key factors that adversely affected the credit score; (4) the date on which the credit score was created; and (5) the name of the person or entity that provided the credit score. This additional information would also be provided in connection with a risk-based pricing notice provided when an account review is conducted and the consumer's credit score is used in making the decision to increase the Annual Percentage Rate on the account. To accommodate these additional requirements, the Agencies have proposed two additional model risk-based pricing forms.

4721 South Biltmore Lane
Madison, WI 53718

P. O. Box 8880
Madison, WI 53708-8880

608-441-1200
Fax 608-661-9381

www.wisbank.com

Generally, WBA supports the proposed rules and new model forms, as more fully discussed below; however, we are quite concerned that the implementation of final rules cannot be completed by the designated transfer date (DTD) of July 21, 2011. As is the case with any regulatory change, analysis of the final rule must occur to determine how it will impact policies, procedures, training of personnel, and systems. Once the impact has been evaluated, sufficient time is needed to implement the changes, including revisions to policies and procedures, actual training of personnel, creation of new forms and programming and testing of systems. WBA strongly believes this cannot be accomplished by the DTD. For this reason, WBA urges the Agencies to set a mandatory compliance date of at least nine months following issuance of the final rules.

As noted earlier, WBA otherwise generally supports the proposal. First, WBA agrees with the Agencies that when a lender does not use a credit score in making the credit decision which triggers a risk-based pricing notice, that the lender is not required to provide credit score information in such notice. In addition, WBA agrees that a consumer who receives a risk-based pricing notice in a transaction in which the consumer's credit score is used, that such consumer receives only his or her credit score information and no other person's credit score information. Furthermore, WBA fully supports the continued availability of the exceptions under the current rules, including use of the credit score exception disclosures in lieu of the general risk-based pricing notices. Thus, WBA strongly recommends that the commentary expressly address each of the aforementioned points.

Turning now to a related issue, not currently part of this proposal—that being disclosure of credit score information in adverse action notices under section 615(a) of FCRA—WBA is concerned that, in certain circumstances, credit score information will have already been provided to the consumer under other disclosure requirements with earlier timing requirements than those for adverse action notices and, therefore, will lead to the consumer confusion resulting from receipt of duplicative information.

Specifically, when adverse action is taken that is based in whole or in part on a credit score, the adverse action notice provided to the consumer must include: (1) a numerical credit score used in making the credit decision; (2) the range of possible scores; (3) the key factors that adversely affected the credit score; (4) the date on which the credit score was created; and (5) the name of the person or entity that provided the credit score.

However, the information listed above is the same information that must be provided under section 609(g) of FCRA for a consumer credit transaction secured by 1-4 family residential real property where the lender uses a credit score. This disclosure must be given "as soon as reasonably practicable". This timing requirement arises, in most cases, before the creditor has made a credit decision, including taking adverse action. Thus, under the current statutory

regime, the consumer could receive the same information twice—first in the disclosures required by section 609(g), and subsequently in an adverse action notice under section 615(a).

To avoid the potential confusion this could cause, WBA recommends that, when rulemaking authority transfers to the Bureau of Consumer Financial Protection (CFPB), CFPB act under such authority to propose rules whereby the requirement to give credit score information in connection with adverse action is deemed satisfied if the consumer is provided with the disclosures required under section 609(g) of FCRA prior to the consumer being notified of adverse action taken. In such cases, the adverse action notice provided to the consumer would not be required to include credit score information.

WBA applauds the efforts of FRB and FTC to create additional risk-based pricing notices that are consistent with DFA's amendments to FCRA. However, WBA strongly urges the Agencies to set a mandatory compliance date that is at least nine months following issuance of the final rule, rather than requiring compliance by the DTD.

Once again, WBA appreciates the opportunity to submit comments on this important matter.

Sincerely,

Rose M. Oswald Poels
Interim President and CEO