

~~adverse action determination. If the credit score was a factor in the adverse action decision, even if it was not a significant factor, the creditor will have used the credit score for purposes of section 1100F of the Dodd-Frank Act.~~

~~A trade association representing motor vehicle dealers submitted a comment letter asserting that in certain three-party transactions where the dealer is the original creditor, the dealer should not be subject to the requirements of section 1100F, because a third party that purchases the debt obligation from the dealer obtains the creditor score, rather than the dealer. This issue is outside the scope of this rulemaking under Regulation B and the ECOA, because it seeks an interpretation of the FCRA as it applies to a particular type of transaction. This issue is addressed, however, in the FCRA rulemaking under section 1100F of the Dodd-Frank Act published elsewhere in today's Federal Register notice.~~

*Disclosure that no credit score is available.* In some cases, a creditor may try to obtain a credit score for an applicant, but the applicant may have insufficient credit history for the consumer reporting agency to generate a credit score. One commenter asked that the creditor have the option to provide the applicant notice that no credit score was available from a consumer reporting agency in the space available for the credit information disclosure.

Section 1100F only applies when a creditor uses a credit score in taking adverse action. The creditor cannot disclose credit score information if an applicant has no credit score. Nothing in section 1100F of the Dodd-Frank Act prevents a creditor, however, from providing the applicant notice that no credit score was available from a consumer reporting agency, although section 1100F does not require such notice.

~~*Key factors.* Several industry commenters argued that creditors should have flexibility to disclose only factors that substantially affected the credit score. They asserted that requiring creditors to disclose the top four key factors (or five factors if the number of inquiries made with respect to that consumer report is a key factor) is burdensome and expensive for creditors, is confusing and will be of limited value to consumers. In contrast, one commenter stated that creditors should be required to disclose all factors that affected the credit score, not just the top four (or five) key factors.~~

~~Section 1100F of the Dodd-Frank Act expressly requires disclosure of the top four (or five) key factors that adversely affected the credit score, whether or not the effect was substantial. A person taking adverse action must provide the consumer the information set forth in subparagraphs (B) through (E) of section 609(f)(1) of the FCRA. Section 609(f)(1)(C) of the FCRA requires disclosure of all of the key factors that adversely affected the credit score in the model used, up to four, subject to section 609(f)(9) of the FCRA, which states that if the key factors that adversely affected the credit score include the number of inquiries made with respect to the consumer report, the "number of inquiries" must be disclosed as a key factor.~~

~~An industry commenter requested clarification that a creditor is permitted to rely on and disclose the key factors provided by consumer reporting agencies, without~~