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**What you need to know about
Firm Offers of Credit
Under the Fair Credit Reporting Act**

A few of my clients have recently made inquiries to made about the requirements of the Fair Credit Reporting Act ("FCRA") and in particular "firm offers of credit." For that reason I thought a primer in this issue of the National Regulatory Newsletter was warranted.

A firm offer of credit is defined by the FCRA as "any offer of credit that will be honored if the consumer is determined, based on information in a consumer [credit] report..., to meet the specific criteria used to select the consumer for the offer." Once a firm offer of credit is made, the offer may be conditioned on specific criteria related to credit worthiness for the purpose of determining whether to extend credit pursuant to the offer.

These firm offers of credit usually come in the form of an advertisement to a consumer stating that they have been "pre-approved" for a credit line or credit related to a specific purchase. The FCRA permits a company to access a consumer's credit report, without the consumer's permission, if company plans to extend a firm offer of credit to that consumer. The FCRA has several specific requirements and the advertiser must provide certain disclosures when using a consumer report for a credit transaction that was not initiated by the consumer. When a firm offer is made in writing, the solicitation must include a clear and conspicuous statement that:

- information contained in the consumer's credit report was used to extend the offer,
- the consumer received the offer of credit because the consumer satisfied the criteria for credit worthiness
- if applicable, the credit may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on credit worthiness or insurability or does not furnish any required collateral
- the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit transaction that is not initiated by the consumer, and