



The Facts on the FACTA Clarification Act

Written by: Banking Management Economic Valuation Expert Witness No. 74

[Click here to view this Expert's CV](#)

Congress passed The Fair and Accurate Credit Transactions Act ("FACTA" or the "Act"), and it was signed into law on December 4, 2003. FACTA became fully effective on December 4, 2006. The purpose of FACTA is to reduce the amount of personal confidential financial information that is generated and thereby reduce the incidence of identity theft, credit card fraud, and debit card fraud. To help accomplish this goal, 15 USC 1681c(g)(1) requires that merchants that issue receipts to individuals truncate all but the last four or five digits of the customer's credit card or debit card account number and truncate the entire expiration date.

Much confusion resulted from FACTA, and the Act was effectively ignored by some merchants, despite the fact that the Act was widely discussed and publicized before and after its enactment. In response to the many lawsuits that resulted over violations of FACTA, Congress wrote and passed an act to protect businesses that did in fact print expiration dates on credit card or debit card receipts after the effective date of FACTA.

The Credit and Debit Card Receipt Clarification Act of 2007 (the "Clarification Act") took effect on June 3, 2008. After June 3, 2008, a merchant that prints a credit card's or debit card's expiration date on an electronically generated receipt given to a customer is in violation of FACTA, even if the credit card or debit card number is properly truncated.

The so-called Clarification Act was not really meant to "clarify" anything except that it gave past violators a pass for their failure to follow the requirements of FACTA. Specifically, the Clarification Act created a window from December 4, 2004, to June 3, 2008, during which violations of FACTA involving the printing of credit card or debit card expiration dates will not be considered to be willful noncompliance with FACTA.

Continued...

[Home](#) | [Find an Expert Witness](#) | [Request an Expert Witness](#) |
[Be our Expert Witness](#) | [Feedback](#) | [About Us](#) | [Links](#) | [Brochure](#) | [Contact Us](#)

289 Church Ave., Chula Vista, CA 91910 (800) 683-9847 (619) 422-5559 Fax (619) 422-8101

The Facts on the FACTA Clarification Act - Continued

As a non-attorney banking consultant, my reading of the current requirements for what is now considered to be willful noncompliance with FACTA is:

The printing on an electronically generated receipt of more than the last five digits of a credit card or debit card account number after December 4, 2006.

The printing on an electronically generated receipt of the credit card's or debit card's expiration date after June 3, 2008, whether or not the credit card or debit card account number is properly truncated.

Despite the five and one half year time frame during which the banking, credit card, and retail industries have been dealing with FACTA, today there are, inexplicably, merchants that continue to violate FACTA. These merchants must immediately take the relatively easy and inexpensive steps required to reprogram their IT systems so that they are in compliance with FACTA. If they fail to do this, it is my professional opinion that there will be another round of FACTA lawsuits aimed at achieving compliance with the requirements of FACTA and the Clarification Act. I have already seen some of these lawsuits.

This Banking Expert Witness Consultant has worked on over 50 FACTA cases nationwide and is available to discuss FACTA matters with attorneys.

About the Author

Expert Witness 74, as a manager, consultant, and banking regulator, has successfully managed hundreds of millions of dollars of distressed and foreclosed properties of all types including single-family houses, condominiums, subdivisions and land developments, apartments, office buildings, retail shopping centers, warehouses, industrial properties, and many others nationwide. He is available on a contract basis to discuss your bank's particular needs.

[To See Qualifications for this Author](#)

[View this Article as a Webpage](#)

[Return To Summer 2009 Newsletter](#)



Reprinted with permission from Author

[Home](#) | [Find an Expert Witness](#) | [Request an Expert Witness](#) |
[Be our Expert Witness](#) | [Feedback](#) | [About Us](#) | [Links](#) | [Brochure](#) | [Contact Us](#)

289 Church Ave., Chula Vista, CA 91910 (800) 683-9847 (619) 422-5559 Fax (619) 422-8101