

**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

**SUPPLEMENTARY INFORMATION:** This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

#### Open Session

##### A. Approval of Minutes

- January 11, 2007 (Open and Closed).

##### B. New Business—Regulations

- Joint and Several Liability—Priority of Claims (Proposed Rule).

##### C. Reports

- Office of Management Services Quarterly Report.

Dated: February 2, 2007.

**Roland E. Smith,**

Secretary, Farm Credit Administration Board.  
[FR Doc. 07-528 Filed 2-1-07; 4:44 pm]

**BILLING CODE 6705-01-P**

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## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Additional information on all bank holding companies may be obtained from the National Information Center Web site at <http://www.ffiec.gov/nic/>.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 2007.

**A. Federal Reserve Bank of Minneapolis** (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *Hayward Bancshares, Inc., Eau Claire, Wisconsin* to acquire 100 percent of the voting shares of Summit Community Bank, Maplewood, Minnesota.

**B. Federal Reserve Bank of Kansas City** (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Kaw Valley Bancshares, Inc.*, to acquire 100 percent of the voting shares of Kaw Valley State Bank & Trust Company, both of Wamego, Kansas.

Board of Governors of the Federal Reserve System, February 1, 2007.

**Robert deV. Frierson,**

Deputy Secretary of the Board.

[FR Doc. E7-1887 Filed 2-5-07; 8:45 am]

**BILLING CODE 6210-01-S**

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## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Reinstatement of Existing Collection; Comment Request

**AGENCY:** Federal Trade Commission.

**ACTION:** Notice and request for comment.

**SUMMARY:** The Federal Trade Commission (“FTC” or “Commission”) intends to conduct a pilot study in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003. This study is a follow-up to the Commission’s previous pilot study conducted from October 2005 through June 2006. Before gathering this information, the FTC is seeking public comment on its proposed consumer pilot study. The information collection requirements described below will be submitted to the Office of Management and Budget (“OMB”) for review, as required by the Paperwork Reduction Act.

**DATES:** Public comments must be received on or before March 8, 2007.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to “Accuracy Pilot Study: Paperwork Comment (FTC file no. P044804)” to facilitate the

organization of the comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled “Confidential.”<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

Comments filed in electronic form should be submitted by using the following Web link: <https://secure.commentworks.com/ftc-accuracy-expand> (and following the instructions on the Web-based form). To ensure that the Commission considers an electronic comment, you must file it on the Web-based form at the Web link <https://secure.commentworks.com/ftc-accuracy-expand>. If this notice appears at [www.regulations.gov](http://www.regulations.gov), you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

Comments should also be submitted to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for

<sup>1</sup> Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

individuals from public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

**FOR FURTHER INFORMATION CONTACT:** Peter Vander Nat, Economist, (202) 326-3518, Federal Trade Commission, Bureau of Economics, 600 Pennsylvania Ave., NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Section 319 of the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act"), Pub. L. 108-159 (2003), requires the FTC to study the accuracy and completeness of information in consumers' credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the FACT Act requires the Commission to issue a series of biennial reports to Congress over a period of eleven years, and the FTC has submitted two reports thus far: one in December 2004 ("December 2004 Report") and another in December 2006 ("December 2006 Report").<sup>2</sup>

In July 2005, OMB approved the FTC's plan to conduct a consumer pilot study to evaluate the feasibility of directly involving consumers in a review of the information in their credit reports (OMB Control No. 3084-0133).<sup>3</sup> As discussed below, FTC staff believes it is necessary to conduct a follow-up pilot study to evaluate additional design elements prior to carrying out a nationwide survey on the accuracy and completeness of consumer credit reports. The additional design elements would permit the FTC to further assess whether certain data pertinent to credit report accuracy can be obtained in a way that is not unduly resource-intensive or otherwise cost-prohibitive if extended to a nationwide survey. As was true of the initial study, the follow-up pilot study will not rely on the selection of a nationally representative sample of consumers and statistical conclusions will not be drawn.

Under the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. On October 19,

2006, the FTC sought comment on the information collection requirements associated with the proposed follow-up pilot study.<sup>4</sup> As discussed below, three comments were received. Pursuant to the OMB regulations that implement the PRA (5 CFR Part 1320), the FTC is providing this second opportunity for public comment while seeking OMB approval to reinstate the clearance for the pilot study, which expired in September 2006.<sup>5</sup> All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before March 8, 2007.

## 1. Description of the Collection of Information and Proposed Use

### A. Initial Pilot Study

The goal of the initial pilot study was to assess the feasibility of directly engaging consumers in an in-depth review of their credit reports for the purpose of identifying alleged material errors and attempting to resolve such disputed items through the Fair Credit Report Act ("FCRA") dispute resolution process (see below). The FTC's contractor for the initial pilot study engaged 30 randomly selected participants in an in-depth review of their credit reports. By using the Web site "myfico.com," study participants obtained their credit reports and credit scores from each of the three nationwide consumer reporting agencies (Equifax, Experian, and TransUnion—hereinafter, the "CRAs"). After the research team evaluated consumer alleged errors for materiality, consumers were asked to channel disputed items through the FCRA dispute resolution process.<sup>6</sup>

<sup>4</sup> 71 FR 61776.

<sup>5</sup> The clearance was originally set to expire in December 2006. However, rather than seek a straight extension of the existing clearance in order to conduct the proposed follow-up pilot study, FTC staff asked OMB to discontinue the clearance in September 2006. This procedural approach ensured that the FTC's December 2006 Report to Congress, which includes the contractor's report on initial pilot study, would be publicly available before the expiration of the comment period regarding the October 19, 2006 Notice. See 71 FR 61776.

<sup>6</sup> Section 611 of the FCRA (15 U.S.C. § 1681i) sets forth the process by which a consumer may dispute data in his or her credit files with a CRA, and the CRA's duty to investigate the dispute. Section 623(b) (15 U.S.C. § 1681s-2(b)) spells out the duties of persons that have furnished disputed items of information to a CRA, after receiving notice of a dispute from the CRA. The FCRA dispute resolution process thus involves the review of disputed items by data furnishers and CRAs, and the process renders a specific outcome for each alleged error. By direct instruction of the data furnisher, the following outcomes may occur: delete the item, change or modify the item (specifying the change), or maintain the item as originally reported. Also, a CRA may delete a disputed item due to expiration of statutory time frame (the FCRA limits the process to 30 days, but the time may be extended to 45 days if the consumer submits relevant information

Some of the contractor's key findings concerning the methodology of the initial pilot study include: (i) Participants were successfully engaged in conducting a thorough and effective review of their credit report information over the telephone; (ii) effective mechanisms to protect consumers, personal information can be employed,<sup>7</sup> and (iii) sufficient information was provided for a subsequent analysis of the accuracy of items placed in CRA files and presented in credit reports.<sup>8</sup>

The contractor identified two matters that would need to be addressed further: additional procedures to help consumers follow through with the entirety of the study, and additional ways of identifying and recruiting consumers to become participants in the study. The majority of participants who alleged errors on their credit reports and indicated that they would file a formal dispute did not follow through with their intention to file. Considering that this was also true for those who alleged material errors in the expert opinion of the research team, the need to explore how to best follow-up with consumers who indicate they will file a dispute is clear. Further, the outcome of the study suggests that people who did not have Internet access or experience may have been less willing to participate. Although the contractor would have offered to provide Internet access to otherwise qualified participants, all the consumers who ultimately became participants in the study had Internet access.<sup>9</sup> In consideration of these and

during the 30-day period). The CRAs track these possible actions by using a form called "Online Solution for Complete and Accurate Reporting" (e-OSCAR). See, Federal Trade Commission and Board of Governors of the Federal Reserve System, Report to Congress on the Fair Credit Reporting Act Dispute Process, August 2006. The report is available at <http://www.ftc.gov/reports/index.htm#2006>.

<sup>7</sup> In the protocols of the pilot study, participants were not required to reveal their social security numbers ("SSNs") to University members of the research team, who conducted all interviews. Using normal Web site procedures, only Fair Isaac received SSNs upon an initial request for credit reports at "myfico.com." All financial account numbers were truncated to 3 or 4 digits in any information available to University researchers. More generally, the contractor used procedures that avoided identification of study participants to CRAs and data furnishers.

<sup>8</sup> See December 2006 Report and its appendix, which includes the contractor's report on the initial pilot study (available at <http://www.ftc.gov/reports/index.htm#2006>).

<sup>9</sup> A broad spectrum of credit scores was attained in the study group, but the distribution tended toward relatively higher credit scores. The contractor compared participants' credit scores to the national distribution, and the study data revealed that low scores were underrepresented in the sample, while high scores were over-represented.

<sup>2</sup> Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2004, and Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2006. The respective reports are available on the FTC's Web site at <http://www.ftc.gov/reports/index.htm#2004> and <http://www.ftc.gov/reports/index.htm#2006>.

<sup>3</sup> See 70 FR 24583 (May 10, 2005) (design of initial pilot study and related public comments).

other matters, the FTC plans to conduct a follow-up pilot study.

### B. Follow-Up Pilot Study

In many respects, the design of the follow-up study will be similar to the initial pilot study. The elements of the proposed follow-up study are as follows:

(i) A study group of 120 consumers will be drawn by a randomized procedure that is screened to consist of adult members of households to whom credit has been extended in the form of credit cards, automobile loans, home mortgages, or other forms of installment credit. The FTC will send a letter to potential study participants describing the nature and purpose of the pilot study. The contractor will screen consumers by conducting telephone interviews. Consumers who qualify and agree to participate will sign a prepared consent form giving the contractor permission to review the consumer's credit reports.

(ii) In selecting the study group, the contractor will use, and may also experiment with, a variety of methods for recruiting participants. In addition to the randomized selection procedure used in the initial pilot study (which made use of telephone directories), the contractor may engage consumers through referrals from financial institutions as they apply for credit, *e.g.*, mortgages, automobile loans, or other forms of credit. (Lenders will know—and have a permissible purpose for knowing—the consumer's credit score and certain other characteristics; consumers can then be informed of the FTC study and invited to participate.) The contractor may employ additional methods for securing participation, provided that no method would violate the permissible purposes for obtaining a consumer's credit report (FCRA sec. 604).

(iii) The selected study group will consist of consumers having a diversity of credit scores over three broad categories: poor, fair, and good. The contractor will monitor the respective processes of recruitment so as to attain approximately equal representations of credit scores across the designated categories.

(iv) The contractor will help participants obtain their credit reports from the CRAs. Each participant will request his or her three credit reports on the same day, although different participants will generally request their reports on different days.

(v) The contractor will help the participants review their credit reports by resolving common misunderstandings that they may have

about the information in their reports; this will involve educating the consumers wherever appropriate (thereby helping them to distinguish between accurate and inaccurate information).

(vi) The contractor will help participants locate any material differences or discrepancies among their three reports and check whether these differences indicate inaccuracies.

(vii) The contractor will facilitate a participant's contact with CRAs and data furnishers as necessary to help resolve credit report items that the participant views as inaccurate. To the extent necessary, the contractor will guide participants through the dispute process established by the FCRA. The contractor will not directly contact CRAs or data furnishers during the course of the study, as the outcome of a dispute may still be pending. The contractor will determine whether any changes in the participant's credit score result from changes in credit report information.<sup>10</sup>

(viii) For study participants who have alleged material errors and expressed an intention to file a dispute but do not file within 6 weeks, the contractor will prepare draft dispute letters on their behalf (together with stamped envelopes, pre-addressed to relevant CRAs). The contractor will ascertain from the consumer whether the letter correctly describes the consumer's allegation and, upon confirmation, the participant will be asked to sign and send the letter.

As was true of the initial study, the proposed follow-up pilot study is not intended to replicate normal circumstances under which consumers generally review their credit reports; nor is it intended to evaluate the adequacy or complexity of the dispute process. The scrutiny applied to the reports of study participants, with the help of expert advice, would not at all be indicative of a consumer's normal experience in reviewing a credit report. The FTC recognizes that consumers often are not familiar with credit reporting procedures and may have difficulties in understanding a credit report (which may be partly due to a consumer's own misconceptions). Also,

<sup>10</sup>In making this comparison, the contractor will not just obtain a new credit report and score from the relevant CRAs after items have been corrected (although such reports will be obtained). The contractor is required to have the expertise to re-score the original credit report in the context of those changes directly related to the contractor's review, thereby re-scoring the consumer's "frozen file." This method addresses the concern that changes in credit scores retrieved from CRAs could be the result of the addition of new items rather than corrected items.

as noted above, some consumers may need extra guidance and help in completing the process of filing disputes for alleged errors. In all of the proposed activities, the contractor will again use procedures that avoid identification of study participants to CRAs and data furnishers.

As was further true of the initial study, the proposed follow-up pilot study will not employ a specific definition of accuracy and completeness and no decision has been made on the definition of these terms for a nationwide survey.<sup>11</sup> Instead, both the initial and follow-up pilot studies seek to assess a methodology that involves consumer review of credit reports and both seek to ascertain the variety of information pertinent to accuracy and completeness that can be garnered. Finally, the follow-up pilot study will list an array of possible outcomes for items reviewed on the participants' credit reports. FTC staff anticipates this list will include the following categories (the contractor may supply additional categories as warranted by matters encountered in the study):

"disputed by consumer and deleted due to expiration of statutory [FCRA] time frame;"

"disputed by consumer and data furnisher agrees to delete the item;"

"disputed by consumer and data furnisher agrees to change or modify the item;"

"disputed by consumer and data furnisher disagrees, maintaining the item to be correct;"

"item not disputed by consumer;" or

"item not present on the report."<sup>12</sup> As discussed in the December 2006 Report (at 7), which recognizes that the results of the dispute process do not establish the "accuracy" of credit reports in an absolute sense, it is still

<sup>11</sup> See also December 2004 Report at 5 n.10, which discusses different definitions of completeness, and at 16–18, which discusses FCRA accuracy and completeness requirements.

<sup>12</sup> The FTC staff recognizes the different reporting cycles of data furnishers and the voluntary basis on which information is reported to a CRA. There may be different explanations why an anticipated item is not on a particular credit report. The item may be missing because a data furnisher did not provide the information to a certain CRA, or—due to the specific reporting cycle of the data furnisher—because it was provided at a time after the credit report was viewed by the consumer. Alternatively, the item may have been submitted to a CRA but placed in the wrong consumer's file. The contractor will seek to determine, to the extent practicable, which of these explanations may apply. For example, at the end of the study the contractor may contact XYZ Mortgage, give a brief explanation of the FTC's pilot study, and inquire whether this furnisher normally reports information to Credit Bureau A; if so, then inquire about the timing of the reporting cycle. When making such inquiries, the contractor will not disclose the identities of study participants.

anticipated that these categories will be useful in designing a nationwide survey regardless of how “accuracy” and “completeness” may be delineated for such a survey.

### C. Summary of Public Comments

The FTC received three comments on the proposed follow-up pilot study; one from ACA International (“ACA”), another from the Consumer Data Industry Association (“CDIA”), and a third from TransUnion, LLC (“TransUnion”).<sup>13</sup> The comments from each of these organizations are addressed below.

#### 1. ACA Comment<sup>14</sup>

ACA supports the goal of both the initial and proposed follow-up pilot study (ACA at 5), while it also expresses concerns. ACA (at 5–7) views it as a shortcoming that the pilot study design does not include definitions of the terms “accuracy,” “completeness,” or “dispute,” and does not categorize the types of data furnishers who may be addressed by a dispute.

The terms “accuracy” and “completeness” do not require specific definition at this time for the following reason: the pilot studies are not used to draw any conclusions, statistical or otherwise, about accuracy or completeness but are formulated solely as vehicles for assessing the feasibility of a certain study methodology (i.e., an assessment of a consumer survey approach that directly involves consumers in a review of information in their credit reports for the purpose of identifying alleged materials errors and attempting to resolve disputed items through the FCRA dispute resolution process). As discussed above, it is anticipated that the related categories outlined in this notice will be useful in designing a nationwide survey regardless of how the terms accuracy and completeness may be delineated for such a survey.

Regarding ACA’s question about the term “dispute” and a classification for “data furnisher,” staff uses these terms—expressly for the purpose of the pilot studies—in the following way: in regard to items on a credit report, a “disputed item” is a consumer alleged error that is communicated by the consumer, either in writing or electronically, to a CRA or to a data furnisher; a “data furnisher” is simply

<sup>13</sup> The comments are available on the FTC’s Web site at <http://www.ftc.gov/os/comments/FACTA-accuracy-study-2/index.htm>.

<sup>14</sup> ACA (at 1) describes itself as an international trade organization of credit and collection companies that provide a variety of accounts receivable management services.

a party who provides to a CRA any of the items that appear on a credit report.<sup>15</sup> In giving this description, staff sees no need to classify, at this stage, the types of data furnishers who may be involved with consumer disputed items.<sup>16</sup>

#### 2. CDIA Comment

The CDIA expresses support for FTC’s plan to continue testing a methodology for a prospective nationwide study (CDIA at 1), and it also gives comment on a number of related matters. For purposes of staff’s response, we summarize CDIA’s concerns as follows: (1) specific concerns and advice pertaining to the design of a nationwide survey, (2) concerns with the contractor’s report on the completed pilot study in relation to the proposed follow-up pilot study, and (3) concerns that some of the activities of the study may fall outside the scope of the mandate given to the FTC by Section 319 of the FACT Act. FTC staff addresses each of these areas in turn.

Regarding the design of a nationwide survey, CDIA (at 2–4) raises many matters, including the selection of sample participants and institutions that may be involved in helping to identify potential participants, appropriate sample size for a national survey, potential sample bias, and the need to ensure that the sample of credit reports utilized in a national survey have a distribution of credit scores representative of the national distribution. In connection with all of these matters, CDIA’s overriding request appears to be (CDIA at 2) that the FTC present a national survey design for public comment. FTC staff has no disagreement with CDIA regarding these stated concerns but believes that a staff response would presently be premature. The design for a nationwide study depends in part on what the proposed follow-up pilot study reveals. More generally, staff affirms that a proposed design for a nationwide survey will be made publicly available.<sup>17</sup>

<sup>15</sup> In offering this description, staff is not proposing any legal determination of duties or actions that may be required of a CRA or a data furnisher under the FCRA.

<sup>16</sup> In preparation for the Commission’s stated goal of classifying credit report errors by type and seriousness in terms of potential consumer harm (see, December 2006 Report at 2), it is expected that the studies will rank categories of credit report information according to the frequency of consumer disputes and determined errors. This type of ranking may be expected to render, concurrently, some categorization of corresponding data furnishers.

<sup>17</sup> Staff anticipates that upon completion of the follow-up pilot study, a subsequent design for a nationwide survey will be submitted for OMB clearance. As is also true of the present matter, the

Regarding the work-product contained in the contractor’s report, CDIA objects to some of the ways in which data were presented, and it disagrees with certain views and recommendations of the contractor (CDIA at 4–6). Before responding to these matters, staff notes that in order to have a transparent study process in connection with Section 319 of the FACT Act, the FTC made public the entirety of the contractor’s report on the initial pilot study (appendix to the FTC’s December 2006 Report to Congress). In the same report to Congress (at 2–4), the FTC brought forward those salient features in the contractor’s report that were used in proposing a follow-up pilot study. Overall, staff believes that CDIA raises two or three matters that relate to both the work-product of the contractor and the FTC’s formulation of a follow-up pilot study; these are discussed below.<sup>18</sup>

As described in section B(vi) above, when conducting the proposed follow-up pilot study, the FTC anticipates that the contractor will help participants to locate any material differences or discrepancies among their three credit reports and to check whether these differences indicate inaccuracies. In regard to this proposed study design element, CDIA (at 6–7) strongly objects to using a “cross-file analysis \* \* \* publishing score range differences \* \* \*” for the initial study or for the proposed follow-up pilot study. Staff agrees with CDIA that differences in credit scores across a consumer’s credit reports (including very substantial differences) need not indicate errors. Given the voluntary basis on which information is reported to a CRA, (see note 12 above), there may be various explanations for differences in credit report information. Nonetheless, a score difference is relevant to the study if this score difference should be based on informational differences or discrepancies arising from some error in a consumer’s credit files. (Staff anticipates that certain credit score ranges will be used to categorize the impact of determined errors; see discussion below.)

A second matter raised by CDIA that pertains to both the work-product of the contractor and the formulation of a

clearance process involves two **Federal Register** Notices which set forth the design elements of the study. Each notice provides opportunity for public scrutiny and comment.

<sup>18</sup> The December 2006 Report (at 1) noted that the work-product and opinions of the contractor are not necessarily findings or opinions of the FTC. Staff sees no fruitful purpose to respond to matters in the contractor’s report that were not used to formulate the follow-up study.

follow-up pilot study involves the meaning of the term material and score ranges used for assessing materiality. CDIA (at 5) notes that certain credit score ranges were used by the contractor in assessing potential materiality.<sup>19</sup> For the follow-up pilot study, FTC staff anticipates that disputed information will likely be categorized incrementally in terms of 10 point movements in score changes derived from a re-scoring of frozen files.<sup>20</sup>

CDIA (at 5) also inquires how the study will address items that remain unresolved after the dispute process is complete; i.e., items for which a data furnisher maintains the information to be accurate but the consumer maintains it is not. Staff does not intend that the study would resolve such items and anticipates that the study will identify certain items (in terms of the categories of credit report information and their frequency) that remain unresolved. As noted in the FTC's December 2006 Report (at 7), knowing the results of the dispute process does not establish the accuracy of credit reports in an absolute sense. Yet, a study using the dispute process appears to be the only feasible way of performing a study of credit report accuracy, in view of the enormous difficulty and cost of attempting to ascertain the ultimate accuracy regarding alleged errors.

CDIA also comments on the mandate given by Section 319 of the FACT Act and maintains that such matters as comparing scores across credit bureaus

(as discussed above), attempting to ascertain why consumers do not dispute alleged inaccuracies, and engaging non-English speaking consumers in a review of their credit reports, all fall outside the scope of the Act (CDIA at 7). FTC staff disagrees. Staff believes that all of the design elements set forth regarding the follow-up pilot study (section B above) fall within the two-prong scope of the mandate: to study the accuracy and completeness of credit report information and to study methods for improving the accuracy and completeness of such information.

### 3. TransUnion Comment

Beyond the support expressed for CDIA's comments, TransUnion's comment letter conveys critical concern and advice in four main areas: (1) Disappointment that the FTC has not defined the terms accuracy and completeness in the context of the present studies, (2) concern that the FTC's scope in executing the mandate of Section 319 of the FACT Act appears to be limited to the three nationwide credit bureaus (Equifax, Experian, and TransUnion), (3) advice that, since Fair Isaac has recently developed a subsidiary that acts as a consumer reporting agency, Fair Isaac should not play a part in any follow-up study, and (4) a request that any person who has disputed credit report information in the past be excluded from the follow-up study.

In the above discussion of ACA's concerns, staff has explained why the terms "accuracy" and "completeness" do not require definitions in the context of these pilot studies; the same response serves as a reply to TransUnion's comment on this matter.

Regarding TransUnion's question (at 2) about the scope of the study on the variety of consumer reporting agencies encompassed under section 319 of the FACT Act, staff notes that the proposed pilot study does indeed involve credit reports and scores from Equifax, Experian, and TransUnion. We recognize there are many consumer reporting agencies, but credit reports from the three nationwide CRAs are the most widely used in making credit, insurance, and employment decisions. Staff has not foreclosed the possibility of recommending that additional consumer reporting agencies may be included in a broader survey. As noted above, any design for a nationwide study will, in due course, be made available for public comment.

TransUnion also requests (at 2) that Fair Isaac not be part of the contracting team for any follow-up study. The background for TransUnion's request

appears to be that Fair Isaac has recently developed a new credit score (an "Expansion Score") in regard to which a subsidiary of Fair Isaac acts as a consumer reporting agency. As described by the company,<sup>21</sup> this score has been developed for credit grantors in connection with consumers who have insufficient credit histories to render the traditional FICO-based scores that are used by the nationwide CRAs.

Staff has considered this matter and does not think TransUnion's stated concern would justify excluding Fair Isaac from the bidding process for a follow-up pilot study.<sup>22</sup> In the initial study, all participants had credit histories that were evaluated by traditional FICO-based scores, and Fair Isaac's role was limited to using its expert knowledge of these scores in connection with a re-scoring of participants' frozen files for consumer alleged errors.<sup>23</sup> In evaluating the proposals for the extended pilot from various contractors, staff will consider how susceptible a proposal may be to possible bias in the data collection process.

Finally, TransUnion (at 2) requests that anyone who has disputed credit report information in the past be excluded from the follow-up study, further adding that individuals who have already alleged an error at an earlier time should not be allowed to use the study as a means to recast their issues or complaints. Staff has several observations here. If it should be that some items may be "re-disputed" (as TransUnion suggests), the outcome for such disputes would follow from whatever normal procedures may be employed. For example, if a CRA has a reasonable basis for deeming a dispute frivolous, it can advise the consumer so and decline to act further. Or, if a CRA can identify the dispute as being a "re-dispute" of an already considered matter, it can again advise the consumer accordingly. Such responses would be part of the outcome of the study. On the other hand, should a CRA not have a

<sup>19</sup> Based upon staff discussion with the contractor, the contractor viewed an alleged error as material if a re-scoring of the frozen file in regard to the challenged item yielded a change of approximately 30 points (deeming the later score range to be a commonly accepted estimate of normal variation in credit scores across a consumer's three credit reports). However, any consumer who wanted to dispute an item, regardless of anticipated impact, could do so and would be instructed on how to file. The contractor would summarize the results for all disputed items, as categorized by a re-scoring of frozen files to obtain the materiality of alleged errors. But the paucity of filed disputes that occurred in the initial pilot study rendered the procedures for assessing and reporting the materiality of disputed items as largely moot.

<sup>20</sup> We distinguish between disputed items and determined errors. The categorization of disputed items would start with items having an expected impact of 10 points or more, then 20 points, 30 points, and so forth. The various outcomes of the dispute process would also be summarized in terms of these same categories, including any actual changes in credit scores that arise from determined errors (those alleged inaccuracies that the dispute process confirms as being errors). As noted above in connection with design element B(vii), actual changes in scores retrieved from CRAs could be the result of the addition of new items rather than corrected items, so that these actual score changes need not correctly convey the impact of an error in a credit report. Hence, we categorize outcomes by using credit score ranges that refer to a re-scoring of frozen files.

<sup>21</sup> Description obtained from Fair Isaac's Web site at [www.fairisaac.com](http://www.fairisaac.com).

<sup>22</sup> Presently, no determination has been made about a contract award. FTC staff anticipates that a contract will be let out for competitive bidding during the spring of 2007.

<sup>23</sup> See, 70 FR 24583 (May 10, 2005) on the design of the initial pilot study on this matter. The follow-up pilot study has the same design element (i.e., element B(vii), note 10.) Staff further notes that prospective participants are screened to consist of adult members of households to whom credit has been extended in the form of credit cards, automobile loans, home mortgages, or other forms of installment credit (design element B(i)). Typically, such consumers have credit histories capable of evaluation by traditional credit bureau scores.

readily available way of identifying "re-disputed" items, then neither would the contractor.

More generally, staff sees no basis for restricting the study to the reports of consumers who have never disputed any item prior to the study. It is possible that the accuracy of credit reports may differ based on items that have, or have not been, disputed. In light of this, staff plans to include a question in the study about whether consumers have disputed any item in one of their credit reports at an earlier time, and if so, to briefly indicate when and what. But a currently alleged error need not be related to a prior dispute, and we do not see any justification for excluding all consumers who have disputed some item(s) in the past. Staff adds that an important element of both the initial and proposed pilot study is that any contractor must have the expertise to evaluate alleged errors and to assess whether a dispute would be material to creditworthiness. In this context, it is very unlikely that frivolous or immaterial disputes would go forward.

## 2. Estimated Hours Burden

Consumer participation in the follow-up pilot study would involve an initial screening and any subsequent time spent by participants to understand, review, and if deemed necessary, to dispute information in their credit reports. The FTC staff estimates that up to 800 consumers may need to be screened through telephone interviews to obtain 120 participants, and that a screening interview may last up to 10 minutes, yielding a total of approximately 133 hours (800 screening interviews  $\times$  1/6 hour per contact).

With respect to the hours spent by study participants, in some cases the relative simplicity of a credit report may render little need for review and the consumer's participation may only be an hour. For reports that involve difficulties, it may require a number of hours for the participant to be educated about the report and to resolve any disputed items. For items that are disputed, the participant must submit a dispute form, identify the nature of the problem, present verification from the consumer's own records to the extent possible, and perhaps submit further information. As was true of the initial study, FTC staff again estimates the participants' time for reviewing their credit reports at an average of 5 hours per participant, resulting in a total of 600 hours (5 hours  $\times$  120 participants).<sup>24</sup>

<sup>24</sup> This estimate is given for the purpose of calculating burden under the PRA. Information contained in the contractor's report regarding the

Total consumer burden hours are thus approximately 750 hours (derived as 133 screening hours plus 600 participant hours, further rounding upwards to the nearest 50 hours).

## 3. Estimated Cost Burden

The cost per participant should be negligible. Participation is voluntary, and will not require any start-up, capital, or labor expenditures by study participants. As with the initial study, participants will not pay for their credit reports or credit scores.

**William Blumenthal,**  
General Counsel.

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## GENERAL SERVICES ADMINISTRATION

[Docket 2007-0006, Sequence 1]

### Privacy Act of 1974; Notice of Updated System of Records

**AGENCY:** General Services Administration

**ACTION:** Updated Notice.

**SUMMARY:** The General Services Administration (GSA) is providing notice of an update to the record system Personnel Security Files (GSA/HRO-37). The system provides control over personnel security. The update ensures that the system of records meets the requirements of Homeland Security Presidential Directive 12 (HSPD-12) and that individuals be fully informed about collection of their personal information.

**EFFECTIVE DATE:** The system of records will become effective without further notice on March 8, 2007 unless comments received on or before that date result in a contrary determination.

**FOR FURTHER INFORMATION CONTACT:** Call or e-mail the GSA Privacy Act Officer: telephone 202-208-1317; e-mail [gsa.privacyact@gsa.gov](mailto:gsa.privacyact@gsa.gov).

**ADDRESSES:** GSA Privacy Act Officer (CIB), General Services Administration, 1800 F Street NW, Washington, DC 20405.

**SUPPLEMENTARY INFORMATION:** To comply with new requirements of Homeland Security Presidential Directive 12 (HSPD-12), GSA updated its personnel security system. This notice explains

initial study may indicate a somewhat lower estimate of the average time spent by the 30 participants, but it would not render a noticeably different result for the overall consumer burden. In an effort not to underestimate the time spent by additional study participants, FTC staff has retained the estimate used for the initial study.

the new categories of records in the system and the authorities for maintaining the system.

Dated: January 29, 2007.

**Cheryl Paige,**

Acting Director, Office of Information Management.

## GSA/HRO-37

### SYSTEM NAME:

Personnel Security files.

### SECURITY CLASSIFICATION:

Some records in the system are classified under Executive Order 12958 as amended.

### SYSTEM LOCATION:

Personnel security files are maintained with other appropriate records in the Personnel Security Requirements Division (CPR), GSA Building, 1800 F Street NW, Washington, DC 20405.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, applicants for employment, former employees of GSA and of commissions, committees, small agencies serviced by GSA, contractors, students, interns, volunteers, individuals authorized to perform or use services provided in GSA facilities (e.g., Credit Union or Fitness Center) and individuals formerly in any of these positions that require regular, ongoing access to federal facilities, information technology systems or information classified in the interest of national security. Included are historical researchers, experts or consultants, and employees of contractors performing services for GSA.

### CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security files contain information such as name, former names, date and place of birth, home address, phone numbers, height, weight, hair color, eye color, sex, passport information, military information, civil court information, employment history, residential history, Social Security Number, occupation, experience, and investigative material, education and degrees earned, names of associates and references and their contact information, citizenship, names of relatives, citizenship of relatives, names of relatives who work for the federal government, criminal history, mental health history, drug use, financial information, fingerprints, summary report of investigation, results of suitability decisions, level of security clearance, date of issuance of security clearance, requests for appeals, witness statements, investigator's notes, tax