

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**FEDERAL RESERVE SYSTEM**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**NATIONAL CREDIT UNION ADMINISTRATION**

**FEDERAL TRADE COMMISSION**

**Agency Information Collection Activities: Proposed Collection; Comment Request**

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision (OTS) , Treasury; National Credit Union Administration (NCUA); and Federal Trade Commission (FTC).

**ACTION:** Joint notice and request for comment.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995, the OCC, the Board, the FDIC, the OTS, the NCUA, and the FTC (Agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Pursuant to section 214(e) of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act or Act), the Agencies are requesting public comment on a proposed information collection concerning the “Survey of Information Sharing Practices with Affiliates” (Survey).

**DATES:** Comments must be submitted on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Interested parties are invited to submit written comments to any or all of the Agencies. All comments, which should refer to the OMB control number, will be shared among the Agencies.

OCC: You may submit comments, identified by “Survey of Information Sharing Practices with Affiliates (1557-NEW),” by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **OCC Web site:** <http://www.occ.treas.gov>. Click on “Contact the OCC,” scroll down and click on “Comments on Proposed Regulations.”
- **Mail:** Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1-5, Attention: 1557-NEW, 250 E Street, SW., Washington, DC 20219.
- **Fax:** (202) 874-4448
- **E-mail:** [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).

You may review comments by any of the following methods:

- **Viewing Comments Personally:** You can inspect and photocopy the comments at the OCC’s Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.
- **Viewing Comments Electronically:** You may request that we send you an electronic copy of comments via e-mail or mail you a CD-ROM containing electronic copies by contacting the OCC at [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov).

A copy of the comments may also be submitted to the OMB desk officer: OCC Desk Officer, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395-6974.

Board: You may submit comments, identified by “Survey of Information Sharing Practices with Affiliates,” by any of the following methods:

- **Agency Web Site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments on the <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include docket number in the subject line of the message.
- **Fax:** 202-452-3819 or 202-452-3102.
- **Mail:** Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20<sup>th</sup> Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board’s Web site at [www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm](http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm) as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board’s Martin Building (20<sup>th</sup> and C Streets, NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: Written comments should identify “Survey of Information Sharing Practices with Affiliates,” as the subject and be submitted by any of the following methods:

- **Agency Website:** <http://www.fdic.gov/regulations/laws/federal/propose.html>.
- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** [Comments@FDIC.gov](mailto:Comments@FDIC.gov).
- **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments, FDIC, 550 17<sup>th</sup>

Street, NW., Washington, D.C. 20429.

- **Hand Delivery/Courier:** Guard station at the rear of the 550 17<sup>th</sup> Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Comments may be inspected and photocopied in the FDIC Public Information Center, Room E-1002, 3502 North Fairfax Drive, Arlington, VA 22226, between 9:00 a.m. and 4:30 p.m. on business days.

OTS: You may submit comments, identified by “Survey of Information Sharing Practices with Affiliates (1550-NEW),” by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **E-mail:** [infocollection.comments@ots.treas.gov](mailto:infocollection.comments@ots.treas.gov). Please include “Survey of Information Sharing Practices with Affiliates (1550-NEW)” in the subject line of the message and include your name and telephone number in the message.
- **Fax:** (202) 906-6518.
- **Mail:** Information Collection Comments, Chief Counsel’s Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: “Survey of Information Sharing Practices with Affiliates (1550-NEW).”
- **Hand Delivery/Courier:** Guard’s Desk, East Lobby Entrance, 1700 G Street, NW., from 9:00 a.m. to 4:00 p.m. on business days, Attention: Information Collection Comments, Chief Counsel’s Office, “Survey of Information Sharing Practices with Affiliates (1550-NEW).”

Instructions: All comments received will be posted without change to

<http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1>, including any personal

information provided. Docket: For access to the docket to read comments received, go to

<http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1>. In addition, you may inspect

comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to [public.info@ots.treas.gov](mailto:public.info@ots.treas.gov), or send a facsimile transmission to (202) 906-7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10:00 a.m. and 4:00 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

NCUA: You may submit comments by any of the following methods (please send comments by one method only):

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **NCUA Web Site:**  
<http://www.ncua.gov/RegulationsOpinionsLaws/proposedregs/proposedregs.html>. Follow the instructions for submitting comments.
- **E-mail:** Address to [regcomments@ncua.gov](mailto:regcomments@ncua.gov). Include "[Your name] Comments on FACT Act 214(e) Study," in the e-mail subject line.
- **Fax:** (703) 518-6319. Use the subject line described above for e-mail.
- **Mail:** Address to Neil McNamara, Deputy Chief Information Officer, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314-3428.
- **Hand Delivery/Courier:** Same as mail address.

FTC: Comments should refer to "Affiliate Sharing Study: FTC File No. P064802" and may be submitted by any of the following methods. However, if a given 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> A copy of each comment should additionally be submitted -- via facsimile, to (202) 395-6974 -- and addressed to: Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission.

- **E-mail:** Comments filed in electronic form should be submitted as part of or as an attachment to email messages directed to the following email box:  
[affiliatestudy@ftc.gov](mailto:affiliatestudy@ftc.gov). To ensure that the Commission considers an electronic comment, you must send it to the above email box.
- **Federal eRulemaking Portal:** If this notice appears at <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.
- **Mail or Hand Delivery:** A comment filed in paper form should include "Affiliate Sharing Study: FTC File No. P064802" 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, D.C. 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 above. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible.

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

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<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).

<http://www.ftc.gov/os/publiccomments.htm>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the 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:** Additional information may be requested from:

OCC: Karen Furst, Policy Analyst, (202) 874-4509, Policy Analysis Division; Mary Gottlieb, OCC Clearance Officer or Camille Dickerson, Legal Technician, (202) 874-5090, Legislative and Regulatory Activities Division.

Board: Kathleen Conley, Supervisory Consumer Financial Services Analyst, (202) 452-2389; or Michelle Long, Clearance Office, (202) 452-3829, Division of Research and Statistics. Telecommunications Device for the Deaf (TDD) users may call (202) 263-4869.

FDIC: Richard M. Schwartz, Counsel, (202) 898-7424; or Leneta G. Gregorie, Counsel, (202) 898-3719.

OTS: Marilyn K. Burton, OTS Clearance Officer, (202) 906-6467; or Donna Deale, Director of Holding Companies and Affiliates, (202) 906-7488.

NCUA: Regina M. Metz, Staff Attorney, Office of General Counsel, (703) 518-6540; or Matthew Biliouris, Program Officer, Examination and Insurance, (703) 518-6394.

FTC: Sandra Farrington, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, (202) 326-2531; or Margaret Patterson, Economist, Bureau of Economics, (202) 326-3472.

**SUPPLEMENTARY INFORMATION:**

**Proposal for approval of the following new collections of information:**

*Title:* Survey of Information Sharing Practices with Affiliates

*Frequency of Response:* Every three years

*Affected Public:* Business or other for profit

*Type of Review:* New collection

**OCC:**

*OMB Number:* 1557-NEW

*Form Number:* N/A

*Estimated Number of Respondents:* 40

*Estimated Average Time per Response:* 10 hours

*Estimated Total Annual Burden:* 400 hours

**Board:**

*OMB Number:* 7100-NEW

*Form Number:* FR 3214e

*Estimated Number of Respondents:* 60

*Estimated Average Time per Response:* 10 hours

*Estimated Total Annual Burden:* 600 hours

**FDIC:**

*OMB Number:* 3064-NEW

*Form Number:* N/A

*Estimated Number of Respondents:* 100

*Estimated Average Time per Response:* 10 hours

*Estimated Total Annual Burden:* 1,000 hours



**OTS:**

*OMB Number:* 1550-NEW

*Form Number:* N/A

*Estimated Number of Respondents:* 30

*Estimated Average Time per Response:* 10 hours

*Estimated Total Annual Burden:* 300 hours

**NCUA:**

*OMB Number:* 3133-NEW

*Form Number:* N/A

*Estimated Number of Respondents:* 50

*Estimated Average Time per Response:* 10

*Estimated Total Annual Burden:* 500

**FTC:**

*OMB Number:* 3084-NEW

*Form Number:* N/A

*Estimated Number of Respondents:* 20

*Estimated Average Time per Response:* 10 hours

*Estimated Total Annual Burden:* 200 hours

**General description of report**

This information collection is voluntary for financial institution respondents and authorized pursuant to 12 U.S.C. 481 and 484 (national banks); 12 U.S.C. 248 (a)(1) (state member banks); 12 U.S.C. 1463 and 1464 (savings associations); and 12 U.S.C. 1819(a)(Eighth) (state non-member banks and state branches of any foreign bank).

Confidentiality would be determined on a case-by-case basis. In gathering information from respondents under its jurisdiction, the FTC may use the compulsory authority granted to it in Section 6(b) of the Federal Trade Commission Act, 15 U.S.C. 46(b). Confidentiality will be protected in accordance with the FTC Act and the Commission's Rules of Practice.

### **Abstract**

The study the Agencies propose will use a written Survey to be completed by financial institutions and other persons that are creditors or users of consumer reports (“respondents”).<sup>2</sup> The Agencies will use the responses to the Survey to prepare an initial report to the Congress on information sharing practices by financial institutions, creditors, or users of consumer reports with their affiliates. The Agencies are required jointly to submit this report to the Congress together with any recommendations for legislative or regulatory action, pursuant to Section 214(e) of the FACT Act. A copy of the Board’s draft survey of information sharing practices with affiliates will be made available, within seven days after publication of this notice, on the Board’s public Web site at: <http://www.federalreserve.gov/boarddocs/reportforms/review.cfm> under “Information Collections Out for Public Comment.”

### **Background**

The FACT Act became law on December 4, 2003. Pub. L. 108-159, 117 Stat. 1952. In general, the FACT Act amends the Fair Credit Reporting Act (“FCRA”) to enhance the ability of consumers to combat identity theft, increase the accuracy of consumer reports, and allow consumers to exercise greater control regarding the type and amount of marketing solicitations they receive. To promote increasingly efficient national credit markets, the FACT Act also establishes uniform national standards in key areas of regulation regarding consumer report

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<sup>2</sup> Each respondent will provide information about more than one financial institution or other person that is a creditor or user of consumer reports. At a minimum, each respondent will be providing information about itself and at least one affiliate.

information. The Act contains a number of provisions intended to combat consumer fraud and related crimes, including identity theft, and to assist victims of these crimes. Finally, the Act requires the Agencies to conduct a number of studies.

Section 214(e) of the FACT Act requires the Agencies jointly to conduct regular studies of the consumer information sharing practices by financial institutions, and other persons that are creditors or users of consumer reports, with their affiliates. In that regard, Section 214(e) requires the Agencies to identify: (i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information; (ii) the types of information shared by such entities; (iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to which and manner in which consumers exercise such choices, if at all; and (iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes – (I) that are related to employment or hiring including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or (II) of general publication of such information.

The statute also requires the Agencies specifically to examine the information sharing practices that financial institutions and other creditors or users of consumer reports and their affiliates employ to make underwriting decisions or credit evaluations of consumers.

The Agencies must jointly submit a report to the Congress on the results of the initial study together with any recommendations for legislative or regulatory action. After the initial report, the Agencies must jointly submit follow-up reports to the Congress at least once every three years.

### **Proposed Survey Panel**

The Agencies will select the survey panel based on whether the prospective respondent

has affiliates with which it can share information, whether the prospective respondent is likely to be a user of consumer reports, and other factors.

### **Estimated annual burden hours**

Each respondent will complete a written Survey. In order to complete the Survey, the individual completing the form for the respondent will most likely need to consult staff in other parts of the organization and obtain data from recordkeeping systems. Based on the Agencies' expertise and experience, we estimate the consultations and the collection of data will take between four and eight hours per respondent. The Agencies estimate it will then take less than two hours for each respondent to complete the Survey. However, numerous factors are likely to influence the amount of time it will take a respondent to complete the Survey, including the number and type of affiliates, as well as the diversity of information sharing practices among affiliates. Based on the methodology proposed, the total burden imposed by the initial study, for all six agencies, will be approximately 3,000 hours.

### **Request for Comment**

The Agencies invite comment on:

- a. Whether the information collections are necessary for the proper performance of the Agencies' functions, including whether the information has practical utility;
- b. The accuracy of the Agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected; and
- d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

In addition, the OCC invites comments on the following:

aa. The specific data the Agencies should collect to prepare the report required by Section 214(e) of the Fact Act and the terminology that will best describe and correctly specify the data to be collected;

bb. If any data the Agencies should collect are not available, the type of proxy data the Agencies should request;

cc. The extent to which depository institutions currently track and are able to report on the methods (e.g., telephone, online) used by consumers to opt-out of affiliate information sharing; and

dd. Information related to recordkeeping practices or other aspects of the data specification and survey development process.

Comments submitted in response to this notice will be shared among the Agencies. Unless otherwise afforded confidential treatment pursuant to Federal law, all comments will become a matter of public record.

[THIS SIGNATURE PAGE PERTAINS TO THE JOINT NOTICE AND REQUEST FOR COMMENT, “PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; COMMENT REQUEST”]

Dated: 8-22-06

(signed)

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**Stuart Feldstein,**

*Assistant Director, Legislative and Regulatory Activities Division,  
Office of the Comptroller of the Currency.*

[THIS SIGNATURE PAGE PERTAINS TO THE JOINT NOTICE AND REQUEST FOR COMMENT, "PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; COMMENT REQUEST"]

Board of Governors of the Federal Reserve System, August 25, 2006

(signed)

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**Jennifer J. Johnson,**  
Secretary of the Board.

[THIS SIGNATURE PAGE PERTAINS TO THE JOINT NOTICE AND REQUEST FOR COMMENT, "PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; COMMENT REQUEST"]

Dated at Washington, D.C., this 22nd day of August, 2006.

FEDERAL DEPOSIT INSURANCE CORPORATION

(signed)

**Robert E. Feldman,**  
Executive Secretary.



[THIS SIGNATURE PAGE PERTAINS TO THE JOINT NOTICE AND REQUEST FOR COMMENT, "PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; COMMENT REQUEST"]

Dated: August 21, 2006

(signed)

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**Deborah Dakin**  
Senior Deputy Chief Counsel  
Regulations and Legislation Division  
Office of Thrift Supervision

[THIS SIGNATURE PAGE PERTAINS TO THE JOINT NOTICE AND REQUEST FOR COMMENT, "PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; COMMENT REQUEST"]

Dated at Washington, D.C., this 24<sup>th</sup> day of August, 2006.

By the National Credit Union Administration on August 24, 2006.

(signed)

**John Ianno**

Acting Secretary of the Board

[THIS SIGNATURE PAGE PERTAINS TO THE JOINT NOTICE AND REQUEST FOR COMMENT, "PROPOSED AGENCY INFORMATION COLLECTION ACTIVITIES; COMMENT REQUEST"]

Dated at Washington, D.C., this twenty-first day of August, 2006.

FEDERAL TRADE COMMISSION

By direction of the Commission.

(signed)  
Donald S. Clark  
Secretary

**Billing Codes**

OCC: 4810-33-P

Board: 6210-01-P

FDIC: 6714-01-P

OTS: 6720-01-P

NCUA: 7335-01-U

FTC: 6750-01P