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Proposal: Interagency Advance Notice of Proposed Rulemaking:
Procedures to Enhance the Accuracy and Integrity of
Information Furnished to Consumer Reporting Agencies
under Section 312 of the Fair and Accurate Transactions
(FACT) Act

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Comments:

May 22, 2006 VIA ELECTRONIC MAIL Jennifer J. Johnson Secretary Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, NW Washington, DC 20551 Docket No. R-1250 Office of the Comptroller of the Currency 250 E Street, SW Mail Stop 1-5 Washington, DC 20219 Attn: Public Information, Docket No. 06-04 Regulation Comments Chief Counsel's Office Office of Thrift Supervision 1700 G Street, NW Washington, DC 20552 Attn: No. 2006-06 Ms. Mary Rupp Secretary of the Board National Credit Union Administration 1775 Duke Street Alexandria, VA 22314-3428 Robert E. Feldman Executive Secretary Federal Deposit Insurance Corporation 550 17th Street, NW Washington, DC 20429 RIN 3064-AC99 Federal Trade Commission Office of the Secretary Room 159-H (Annex C) 600 Pennsylvania Avenue, NW Washington, DC 20580 Dear Ladies and Gentleman: The National Credit Reporting Association ("NCRA") appreciates the opportunity to submit comments in response to the request for comment published in the Federal Register on March 22, 2006 jointly by the Office of the Comptroller of the Currency ("OCC"), Board of Governors of the Federal Reserve System ("Board"), Federal Deposit Insurance Corporation ("FDIC"), Office of Thrift Supervision ("OTS"), the National Credit Union Administration ("NCUA"), and the Federal Trade Commission ("FTC") (together, the "Agencies") on the Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies ("CRAs") Under Section 312 of the Fair and Accurate Credit Transactions Act ("FACT Act") ("ANPR"), Docket No. (71 Fed. Reg. 14419. We would like to commend the Agencies in their efforts to address the accuracy and integrity of consumer information provided to CRAs, and as well as the consumer dispute processes that cover the credit information under the FCRA and FACTA. Founded in 1992, NCRA is a national trade organization of consumer reporting agencies and associated professionals that provide consumer report products and services to hundreds of thousands of credit grantors, employers, landlords and many other all types of general

businesses. Headquartered in the Chicago suburb of Bloomingdale, Illinois, NCRA serves members in the United States and Puerto Rico. NCRA's membership includes two of every three mortgage credit reporting agencies in the United States that can produce a credit report that meets the requirements of Fannie Mae, Freddie Mac and HUD for mortgage lending. Additionally, our members produce reports for employment screening and tenant screening. As one of NCRA's membership guidelines, members must agree to comply with all federal and state applicable laws, including the Fair Credit Reporting Act, the Fair and Accurate Credit Transactions Act, and the Gramm- Leach-Bliley Act. These laws define the appropriate procedures for obtaining consumer and credit information, establishing the responsibilities and privacy protocols of the users and the furnishers of consumer information. In addition, members must agree to comply with the policies and security; requirements established by the three Repository CRA's. NCRA provides its membership with its compliance tools such as our Online Study Guide, Employee Certification Program for FCRA and FACTA, and Comprehensive Information Security Program. These programs set one of the most stringent " Best Practices" standards in the industry to assist its members in adhering to the Federal regulations. NCRA's members are committed to solid business practices, including agreement with the associations Code of Ethics. NCRA shares its knowledge and understanding of the industry with its members through the Annual Conference, Educational Tele- Seminars, The Credit Reporter and The Advocate publications. For more information visit us at www.ncrainc.org. One of our primary roles Our role in the credit reporting industry, as "resellers" of the products offered by the Repository CRAs, we are involved is our daily involvement in the process of handling consumer disputescorrecting on the consumer credit information collected by the repositories. The updated credit information is then that we in turn prprovided to the "end users" customers we represent. In doing this we work with everyone involved in the credit process, the consumer, the creditors, the repositories, the collection agency, and the public record providers in the more than 3300 counties and federal court jurisdictions nationwide. Additionally, as CRA's defined by FCRA we are often involved in handling direct consumer disputes by forwarding the consumers documentation on to the Repository CRAs. We are involved deeply into the transactions of each of these entities and see the interaction of all aspects of the industry. Based on this insight we would like to offer the following for consideration to your information request as we believe the great system we have can be made better. (A) ACCURACY AND INTEGRITY GUIDELINES AND REGULATIONS 1. Please describe, in detail, the types of errors, omissions, or other problems that may impair the accuracy and integrity of information furnished to CRAs. Describe the problems that arise from inaccurate information and the significance of such problems for consumers, users of consumer reports, and the credit reporting system. There are severalsome issues with errors, omissions, and other problematic data fields on credit reports that have been debated previously, with no resolution, and still cause significant problems today. Some of the most notorious are:

- Non-reportingMissing credit limit on revolving charges. In today's lending environment where the credit score and an automated underwriting system dominates the decision processes of almost all loan types, the non-reporting lack of the credit limit is a significant problem. The credit limit is the most predictive variable other than the consumer's actual loan repayment history. A balance of \$5,000 relative to a credit limit of \$15,000 has a significantly lower impact on the credit score than does a \$5000 balance against a \$6000 credit limit. Thus, when the credit score is calculated on information lacking the credit limit, results are skewed against the consumer. When loan rates are being risk based priced in score increments as low as 10 points per price adjustment, many consumers are being over charged on new credit accounts.
- Collection agency accounts. With respect to In the collection agency data fields there are many areas for improvement in data quality.

Three primary collection related issues are: 1. Many collection agencies are slow to report when collections are paid or transferred to another collection agency. 2. Because the collection industry frequently transfers accounts from one agency to another, this slow reporting process can result in and many times a single collection account being reported by multiple collection agencies. 3. Account “re-aging”, which results in the reporting of the collection on the consumers file for longer than the seven-year statute of limitations. This can happen within a single collection agency or in conjunction with a collection account transfer to another collection agency. • Mixed files. It is not uncommon for one consumer’s credit file to contain accounts that belong to another individual. This can occur for a variety of reasons, most commonly due to related consumers with the same name or generational designations of Junior and Senior, unrelated consumers with the same name, or data entry errors associated with individual creditors accounts. Consumers’ accounts are sometimes reported on the credit report of another consumer other than the actual account owner. This is very typical with common names and same names like generational designations of Junior and Senior. With the rise in identity theft and the push to remove Social Security numbers from the public record databases, mixed files have recently become more problematic as the lack of a Social Security number makes it increasingly difficult to separate public records for common names. When these problems are present on a consumer’s file, both the consumer and the user of the credit report are potentially harmed by the inaccurate data. Consumers may be overcharged for loans based on incorrectly reporting negative data, or conversely, are allowed to become over extended in debt due to the availability of credit that was mistakenly offered to them based on someone else’s positive credit history. The latter scenario brings on the potential for creditors to be exposed to undue lending risks.

2. Please describe, in detail, the patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to CRAs. Please see answer above.

3. Please describe, in detail, any business, economic, or other reasons for the patterns, practices, and specific forms of activity described in item 2. Our replies below are in coordination to item 1. • With respect to the non-reporting of credit limits on revolving charge accounts, some credit card companies believe that disclosing their credit limits will allow competition to gain insight into their intellectual property on consumer lending practices. • With regards to the collection issues: 1. Slow reporting: There is a cost factor to the collection agency in removing the collection and verifying that the data is correct. This activity does not provide a direct return on investment since the collection is now paid. Additionally, it provides collection agencies additional leverage for future collections if the consumer has another account placed with that collection firm. 2. Frequent transfers: Similar to the explanation above however, reply, only this time in this case, the collection agency usually has not collected any funds to cover the additional costs associated with the follow up reporting. 3. Account re-aging: The ability to report the collection account to the credit repositories is the leverage that persuades many consumers into payment. When the statute of limitations expires and this is lost, the chance of recovery on the debt is greatly diminished. • Mixed files are a problem due to many factors, and may be the most difficult area to correct. No one in the credit industry gains from this practice and many consumers are harmed by it, even though they inadvertently are the cause of some of the problems by being inconsistent not being consistent with the way in which they list their own name on complete credit applications. 4. Please describe, in detail, the policies and procedures that a furnisher should implement and maintain to identify, prevent, or mitigate those patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to a CRA. Creditors should be required to provide full file reporting of all data fields on the consumer and the loan terms, including the credit limit (on revolving accounts) when they report. This means it may be time to reconsider the voluntary nature

of the credit reporting system. With the dependence on Due to the use of credit scores and the impact of the omission of either complete accounts or specific account terms on the credit score, it may be time for the law to require creditors, who use credit reports, in turn report their data to the Repository CRA from whom they obtain their data. the time may have come to require by law for creditors electing to use a consumer report to in turn report its accounts to whichever credit reporting agency or agencies it obtained the data. 5. Describe the methods (including technological means) used to furnish consumer information to CRAs. Also, describe how the use of these methods can either enhance or compromise the accuracy and integrity of consumer information that is furnished to CRAs. N/A 6. Describe whether and to what extent furnishers maintain and enforce policies and procedures to ensure the accuracy and integrity of information furnished to CRAs. Assess the effectiveness of these policies and procedures and provide suggestions on how their effectiveness might be improved or enhanced. How are such policies monitored and evaluated to ensure effectiveness. N/A 7. Describe methods that a furnisher should use to ensure the accuracy and integrity of consumer information furnished to a CRA. N/A 8. Describe the policies, procedures, and processes used by furnishers to conduct reinvestigations and to correct inaccurate consumer information that has been furnished to CRAs. Many furnishers of credit have policies stating they will provide account information only to the three credit repositories. There are many other consumer-reporting agencies in the credit reporting system other than the three credit repositories. These non-repository agencies' activities are dictated by the FCRA and they are part of the reinvestigation process. Most often, the consumer reporting agencies that some creditors do not want to respond to are involved in the re-investigation process of the average consumer's most important transaction of their life – a home mortgage. Furnishers of credit should be reminded of their obligations of re-investigation to all types of consumer reporting agencies, not just the three repositories. NCRA would be happy to work with the credit furnisher community to provide a complete listing of trusted consumer reporting agencies to which information can be released without fear of it falling into the wrong hands. If a security program for more positive identification is needed, we will be happy to work with them on that program for better accuracy in the systems. Ultimately, this type of cooperation will benefit both of our customers: the consumer and the credit furnisher. 9. Describe the policies, processes, and procedures that furnishers should use to conduct reinvestigations and to correct inaccurate consumer information that has been furnished to CRAs. See answer above. 10. Describe the policies and procedures of CRAs for ensuring the accuracy and integrity of information received from furnishers. To what extent do these policies, procedures, or other requirements address particular problems that may affect information accuracy and integrity. Reseller CRA's use whatever methods the credit furnisher dictates for them to use to obtain data verification and handle consumer disputes including: phone, fax, email, mail, mail with original signature on credit release, mail with payment for verification, and eOscar (the electronic credit verification system operated by CDIA). (B) DIRECT DISPUTE REGULATIONS 1. Identify the circumstances under which a furnisher should, or should not, be required to investigate a dispute concerning the accuracy of information furnished to a CRA based upon a direct request from the consumer. Why? Consumers are the credit furnishers' customers. When the credit furnisher is reporting information about a credit account on the consumer to a consumer-reporting agency, why would a credit furnisher not be required to investigate a consumer dispute about the accuracy of that data? It seems to be a very basic business responsibility. Unless the consumer has previously disputed the item and does not have sufficient proof of their claim, the furnisher should be required to investigate this dispute and then forward the corrected data to the repositories for updating the consumer's file. Since many of the errors in credit data originate with data errors at the credit

furnisher level, if the credit furnisher were required to be a more significant player in the consumer dispute process the furnisher may be more expeditious in the handling of the consumer's data so less errors may get into the system to be disputed. Of course, if a dispute is frivolous, no reinvestigation need be made. 2. Describe any benefits or costs to consumers from having the right to dispute information directly with the furnisher, rather than through a CRA, in some or all circumstances. Consumers (as well as the entire credit reporting industry) could benefit from the credit furnisher reinvestigating consumer disputes, as the volume of the dispute would be distributed through a wider channel of call processing centers. This should improve the handling of the consumer call load and ultimately increase credit accuracy since the credit furnisher usually has more data about the consumer payment history in their records than is ever transferred to the credit repositories for reporting. This could greatly expedite the process and possibly eliminate the incorrect reinvestigation outcome when handled from the consumer-reporting agency first and then forwarded on to the credit furnisher. It allows for less to be lost in translation. 3. Describe any benefits to furnishers, CRAs, or the credit reporting system that may result if furnishers were required to investigate disputes based on direct requests from consumers in some or all circumstances. See answer above. 4. Describe any costs, including start-up costs, to furnishers and any costs to CRAs or the credit reporting system, of requiring a furnisher to investigate a dispute based on a direct request by a consumer in some or all circumstances. Address the circumstances under which direct disputes with furnishers would cost more, less, or the same to process, excluding start-up costs, as compared to disputes first received and processed by the CRAs. Many credit furnishers already have some type of call center for customer service and credit processing. The costs would be associated with expanding that center to handle an increased volume of calls. We are not in the position to address the costs associated with this. 5. Discuss whether it is the current practice of furnishers to investigate disputes about the accuracy of information furnished to a CRA based on direct requests by consumers. See answer above. 6. Describe the impact on the overall accuracy and integrity of consumer reports if furnishers were required to investigate disputes concerning the accuracy of information furnished to CRAs based on the direct request of the consumer. There should be an increase in the overall accuracy of the data, as the furnisher has the most complete information on the consumer's accounts. Since the consumer has the ability to refrain from doing business with the credit furnisher in the future if their account is not reported and corrected (if reported in error), this accountability should motivate the furnishers to be more accurate. Furnishers tend to be the source of a lot of the current problems and inaccuracies. 7. Describe the circumstances in which direct contact by the consumer with the furnisher would likely result, or would not likely result, in the most expeditious resolution. See answer above. 8. Describe the potential impact on the credit reporting process if credit repair organizations are able to circumvent the prohibition in Section 623(a)(8)(G) (dispute requirement would not apply). Obviously, if credit repair organizations were to flood information furnishers with disputes the way they did consumer reporting agencies several years ago, it would seriously affect the ability of furnishers to efficiently service legitimate disputes. The very existence of credit repair organizations is an example that the system does not work efficiently. Because the system has failed them many times, desperate consumers often turn to these frequently questionable businesses in search of help. Any changes to the system that require a more active role between the credit furnisher and all consumer reporting agencies (both the repository and the reseller) could only help a good system get better. SMALL INSTITUTION COMMENT REQUEST What is the impact on small institutions' current resources and available personnel of procedures that would enhance the accuracy and integrity of information furnished to CRAs? As representatives of the smaller credit reporting agencies, the resellers, we are very sensitive to small

business costs. While the time required for these improvements and the financial cost associated with them could be significantly higher for small institutions in some ways, we have found that in other ways the smaller entities are more flexible and have newer technology, which allows for quicker and simpler adaptation of new requirements. Summary NCRA appreciates the opportunity to provide comments for your consideration and believes they, if implemented, could make a great credit reporting system even better. There are problems within our system that we have highlighted in the answers to your questions. The U.S. economy is vibrant and our credit system has a huge influence on the economy as consumer spending is the largest economic sector. The future of our economy and the ability for consumers to obtain all types of credit based on the most complete and accurate credit report possible can be improved by the measures outlined in this document. This includes starting with the companies that provide consumer information to the CRAs by forcing them to adhere to a higher standard of procedures to ensure the accuracy and integrity of consumer information. It also includes reviewing the voluntary nature of their participation in the process itself, as the new risk based score driven lending processes may have made the voluntary nature of the current system obsolete. If you have any questions, please feel free to contact me at the below address for further information on our positions. Sincerely, Terry W. Clemans Executive Director