

September 18, 2006

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex M)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: The Red Flags Rule, Project No. R611019

Ladies and Gentlemen:

The National Multi Housing Council (NMHC) and the National Apartment Association (NAA) respectfully submit our comments in response to your recent Notice of Proposed Rulemaking to implement sections 114 and 315 of the Fair and Accurate Transactions Act (FACT Act).

The NMHC represents the apartment industry's largest and most prominent firms. NMHC members are the principal officers of these organizations. NAA is the largest national federation of state and local apartment associations, with 190 affiliates representing more than 50,000 professionals who own and manage more than six million apartments. NMHC and NAA jointly operate a federal legislative program and provide a unified voice for the private apartment industry.

We limit our comments to Section 315 because the requirements of Section 114 do not apply to apartment owners and managers.

Requirement to Form a Reasonable Belief of Identity for Address Discrepancies

Section 352 requires users of a consumer report by a consumer reporting agency (CRA) to develop reasonable policies and procedures for verifying a consumer's identity when a notice of address discrepancy is received by the CRA. Owners and operators of multifamily properties routinely use credit reports to assist in the decision making process when qualifying prospective renters. In doing so, our industry is extremely mindful of the growing threat of identity theft and the additional precautions that employees need to take to reduce the opportunities for such thieves.

Apartment property managers and leasing consultants routinely verify the identity of a prospective resident through various documentary methods, including forms of identification such as a valid driver's license. Information is collected through the application, references are checked, employment is verified, and in addition to ordering a traditional credit report, criminal background checks are also conducted in most screening processes as well checking the name of the prospective renter to federal government terrorist watch lists.

We believe this process represents an acceptable process for addressing those situations when the CRA reports an address discrepancy and the Commission does not need to impose a more strict standard such the Consumer Identification Program (CIP), currently required of federally regulated banks and savings associations, credit unions and private banks

Further, apartment owners already have obligations under the FACT Act to take steps when a consumer report includes a fraud and/or active duty alert and to properly dispose of all consumer records to avoid the opportunity for someone to obtain them and cause harm through identity theft.

The American apartment industry . . . working together for quality, accessible, affordable housing.

Requirement to furnish Consumer's Address to a Consumer Reporting Agency

A user must develop and implement reasonable policies and procedures for furnishing an address for the consumer to the CRA once verified.

It is important that the Commission recognize, as indicated in the rule, that some users of CRA information such as rental owners do not furnish information to the CRA on a regular basis. It is more common for reports of negative information such as late payments or moving out with back rent due. It would be reasonable to assume that information can and should be transmitted to the CRA when it is discovered. For the apartment industry, it will be at the initial application stage. Provided the CRA offers a simple means to provide that information, it should be done within a reasonable timeframe after the application stage.

The Commission Should Include Examples of Reasonable Measures

The Commission asks if the regulation should include examples of measures to reasonable confirm the accuracy of the consumers address, or whether different or additional examples should be listed.

We believe it is always beneficial for agencies to provide examples of acceptable measures. In addition to including some of the acceptable and suggested documents to check against, the Commission should acknowledge some of alternative screening tools utilized by the apartment industry. Other means of verifying address should also be considered such as calling the telephone number provided by the CRA while the person is in front of the user. This is already being done by many firms working with prospects in search of rental housing.

Identity theft is costing consumers and businesses millions of dollars each year. The apartment industry continues to adjust business practices to meet the new obligations of the FACT Act and to educate its employees on the risk of identity theft and how it can impact them. We appreciate your consideration of our comments on this issue and look forward to working with you in the future.

Sincerely,

Doug Bibby
President
National Multi Housing Council

Douglas S. Culkin, CAE
President
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