Comment #: 44


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Federal Trade Commission
Office of the Secretary
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Subject: FACT Act Section 318(a)(2)(C) Study;
Matter No. P044804

Ladies and Gentlemen:

Wells Fargo & Company ("Well Fargo") appreciates the opporrtunity to comment on certain aspects of the study mandated by the FACT Act regarding whether consumers who have experienced adverse action based on a consumer report should receive a copy of the same report relied on by the creditor in making the credit decision.

As noted in the Commission's request for comments, it will not always be easy to determine which report (or reports) was (or were) relied on in making a particular credit decision. Especially in mortgage lending, it is common practice to obtain consumer reports on all borrowers, consigners and guarantors from each of the three major national credit reporting agencies if posible, and to obtain such reports more than once in the processing of a single loan. In other types of lending reports are generally obtained on all borrowers, cosigners and guarantors, and reports may be obtained from more than one consumer reporting agency. The decision rules in cases where multiple reports are obtained may be quite complex, and typically would be known only by the creditor and not the consumer reporting agencies. And, where multiple reports are obtained, it it possible that some of them will not be relied upon in making the final credit decision.

The overwhelming majority of consumer reports used by credit grantors—more than 90%—are obtained in electronic format and never converted to paper. In most cases, the contents of the report are analyzed by an automated decision system, and even if a "manual" review of the decision is performed, only certain aspects of the report will be converted to a human-readable form. Even when a consumer report is provided to a creditor on paper, or converted to human-readable form by the creditor, the information is displayed in a highly condensed form using codes and abbreviations that would be meaningless to most consumers. While it would be

possible to convert such reports to a "consumer friendly" format, the cost of obtaining and operating the software required to do so canot currently be estimated.

Experience with the existing requirement of FCRA to provide the consumer with a copy of a report used in making an adverse employment decision is not transferable to credit grantors. Employment decisions are seldom, if ever, automated and are generally made by individuals who are not familiar with the coding structures used in reports furnished for credit underwriting. Accordingly, reports ordered for employment purposes are furnished by the consumer reporting agency in a form that is much closer to that used for consumer disclosures.

To the best of our knowledge, the consumer disclosure version of reports used by the consumer reporting agencies contains all of the information found in the reports provided to creditors, only in a "consumer friendly" format. Similarly, all of the information used to compute credit scores is included in the consumer disclosure version of reports. In fact, the consumer disclosure version contains information not present in the reports received by credit grantors, for example, information pertaining to prescreening and account management inquiries.

Credit grantors are requried by the Equal Credit Opportunity Act and Regulation B to retain information used in making consumer-purpose credit decisions for 25 months. This would include consumer report information used in the credit decision process. Information obtained in electronic form is almost always retained in electronic form.

Requiring disclosure of the "same report" by the credit grantor would entail significant costs to obtain and operate the software necessary to convert electronic reports into a format understandable by consumers. Requiring disclosure of the "same report" by the consumer reporting agency would require the consumer reporting agencies to incur significant costs to archive a copy of **every** report provided, and it would also require the design and inplementation of an elaborate mechanism to inform the consumer reporting agencies of which specific report or reports had been relied upon by creditor in taking adverse action.

It is not clear that consumers would gain significant benefits as a result of the imposition of such costs—which, of course, would ultimately be passed on to consumers in the form of higher costs for credit. ECOA and Regulation B already provide consumers the right to obtain specific reasons for denial of credit. If information from a consumer report plays a significant role in an adverse decision, the consumer will be advised of that fact and will be able to correct or delete information in the consumer's credit bureau file that is erroneous or which resulted from fraudulent activity by another person.

On the other hand, there is a very real downside (apart from the costs described above) for consumers, creditors and consumer reporting agencies in a "same report"disclosure requirement. The "same report" will seldom be the consumer's corrent report. If consumer disclosure is based on the "same report," recent errors or fraudulent activity may well go undetected. On the other hand, creditors and credit reporting agencies will be forced to deal with inquiries and disputes about information which has already been corrected or deleted.

In summary, we believe a "same report" requirement would impose significant costs for little or no benefit, and would in many cases deprive consumers of important information. If you have any questions regarding these comments, please contact the undersigned at (415) 396-0940 or mccorkpl@wellsfargo.com.

Respectfully yours,