Comment #: 55

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To: FactAStudy
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Federal Trade Commission
Office of the Secretary
Room H-159 (Annex M)
600 Pennsylvania Avenue, NW.
Washington, DC 20580

BB&T Corporation ("BB&T") appreciates the opportunity to comment on the Federal Trade Commissions' proposed study regarding ways consumers could remove fraudulent information from their credit report. BB&T is a regional financial holding company with numerous banks and non-bank subsidiaries. This is not necessarily the view of BB&T directly but from the point of view of a creditor. BB&T prefers these views to come from one of the national banking organizations that represent creditors but because of time constraints imposed by the FACT Act, we wanted to make sure creditors views were represented. Our comments are as follows:

A. Extent to Which the Proposed Requirement Would Benefit Consumers

1. How does the credit report received by the creditor currently differ from the information that consumers receive from a consumer reporting agency when they request a copy of their credit report in response to an adverse action notice?

Creditors do not know the answer to this question. Most creditors are not consumer reporting agencies ("CRA") and to avoid being considered a CRA as defines under section 603(g) of FCRA, creditors go to great lengths to not cross the line. This is best summarized in one of the FTC's own Staff Opinion Letters where I quote "However, you question whether your company's method of doing business constitutes "assembling" or "evaluating" information, which is a key component in the definition of a CRA." End-quote. Creditors are bound by this definition and avoid activities that could be construed as CRA related. Creditors let the CRAs do the assembling and evaluating and we seek out their services and feel it is valuable. Creditors feel the majority of the questions posed by the FTC Study could be considered as CRA related activities if performed by the creditor.

b. How frequently are multiple "in files" and/or multiple credit scores received in response to a request for information on a single individual? How are multiple "in files" and/or multiple credit scores treated by parties in their credit granting decisions?

Multiple "in files" and multiple credit scores are not necessary the same.

Creditors consider multiple "in files" or trimerged credit reports to be the merger of the three major credit reporting agency data. The difference in the three major CRAs is not based on inefficiency between the three CRAs but more to do with the geographic locations of the CRA or more to do with the geographic location where the CRA Company originated. For example, certain CRAs have data on individuals living or who lived in the northeast and others have data on individuals living or have lived in southeast. Creditors are not consistent in there use of trimerged reports because it depends more on if the customers are more transit within a lending market than the need to compare the three CRA reports. If the creditors market is transit they may use trimerged and for creditors in these same markets, whose footprint covers only a specific areas, they may use one CRA. This decision is make by the creditor who is taking the risk and the decision as to which credit report is best should stay with the creditor taking the risk. Again the creditor has no control on the consistency of the three major credit reporting agencies and multiple "in file" reports should not be considered as a means in which consumers could remove fraudulent information from their credit report. The current FCRA procedures encourage the three major CRAs to communicate among each other and the creditors cannot be expected to have any part in improving this communication.

Multiple credit score is not the same as the trimergered "in file" credit reports. You cannot make the assumption that each of the three major credit reporting agencies have there own unique credit score or that they merge them into one universal credit score used by all creditors. For credit scores it is far from being a single score used by creditors. The section of the Fact Act that explains the disclosure of credit scores by certain mortgage lenders attempts to define credit scores by stating the score that a consumer reporting agency distributed to creditor and the creditor's used score. Even with these two classifications it does not begin to get a handle on the variety of credit scores used today. In some ways it is not surprising the misunderstanding of the various credit scores used by creditors. The term credit score could mean more than just the front-end score distributed by the CRAs. The term distributed includes the scores owned by the CRA or the scores CRA's distribute for third parties. Creditors may have custom model or behavioral model credit scores as well. Creditors, CRAs, and third party credit score vendors have been working for years to design credit scores or scorecards to raise the percentage of credit approvals as a reasonable risk thereby increasing the availability of credit to larger numbers of customers at a reasonable cost. They have done this in an unbiased way and avoided prohibitive factor. The reason creditors are not shocked that the FTC may not be aware of the diversity of credit scores is even after all the cost and efforts between creditors and their partners in designing these scores there still is a perception that all this was done to deny our applicants. Credit scores work but they are complex in their design and best explained by the owners of such credit score and not by the individual loan officer making a loan. Credit scores should not be used as a means in which consumers could remove fraudulent information from their credit report. The FTC can continue educating consumers on understanding their credit reports and signs of fraudulent activity without increasing the focus on credit scores. Consumers do not need to know how a credit score works they only need to understand that by correcting their credit report their credit score should improve.

c. Does the creditor use all of the information that it receives in response to a request for information on an individual, or, in certain situations, does it use only a subset of that information? For example, if a reseller or a creditor receives multiple "in files" does the creditor rely on all of the "in files" in making its credit granting decision, or does it screen the "in files" to determine which files it will rely on in making its decision? What are the situations in which the creditor relies on a subset of the information in its credit granting decision?

No, creditors do not always use all the information in an "in file" credit report in making a credit granting decision.

2. What current problems exist when the consumer receives a report that is different in form or content from the report relied on by the creditor? Please provide examples of specific situations in which consumers would benefit from the proposed requirement that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action.

The Federal Trade Commission came to the assumption as written in the proposal "Background" section page 33388 of the Federal Register, that "A consumer who requests a copy of his or her credit report subsequent to receiving an adverse action notice may receive a credit report that looks different than the one that the creditor relied on in making its decision." Creditors have no means to come to the same conclusion. Creditors would like the next credit report the consumer receives to be more favorable than the one we originally received. That should be everyone's goal but in most cases consumers cannot change their credit report history overnight. From the prospective of a consumer's removal of fraudulent information from their credit report this is already being addressed between the CRA and the creditor who owns the fraudulent account through the current dispute process as defined under FCRA. This cannot and should not be the responsibility of the creditor who sends the Adverse Action. Creditors do not know if the subsequent credit report received by the consumer looks different than the one we relied on or if this is a problem. Most of our customers concerns are related to delinquency and very rarely on differences in reports received.

3. What information would consumers gain if they receive the same credit report that the creditor relied on in taking the adverse action?

After reading the FTC's study questions, you could come to the conclusion that there is some relation between customer receiving an Adverse Action based on the use of the credit bureau and the overall reason they where denied. There is a difference between the credit bureau being a part in not making a credit granting decision and the credit bureau being the exclusive reason for the denial. Once you understand this, you can see that if the consumer does correct the negative or fraud item does not automatically result in the customer receiving the credit. This relationship is important in understanding that there is no great urgency in the customers receiving the credit report immediately. Creditors continue to solicit these same customers and are always open to customers reapplying for the same credit after the credit deficiency have been removed or improves. Credit underwriting is based on many factors and the credit bureau is just one factor that could result in an Adverse Action. Creditors are opposed to creating an environment where the burden to evaluate a customers credit report be placed at the same time as the Adverse Action.

B. The Cost of Implementing the Proposed Requirement

1. What are the various means by which the proposed requirement that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action could be implemented? What would be the costs associated with implementing the proposed requirement via these various means? Which party (creditor versus the consumer reporting agency) can

provide the same report that the creditor relied on in taking the adverse action to consumers at least cost?

Most creditors are encouraged to receive credit reports electronically and use the information in our underwriting process with little regard as to reproducing it back into a consumer friendly format. The issue of making such a change would not only be costly to creditors but could possibly result in errors in the process of converting it back to such a format.

It could be rather cumbersome to communicate exactly what format or form of credit report was provided to the applicant in order for the CRA to provide a duplicate copy. Creditors use the credit report provided by the wholesale mortgage broker to make the initial credit decision. These credit reports come from various resellers and each broker may have different options as to what is included on the report. These issues make it complicated and costly to communicate exactly what the copy of the credit report provided to the customer should contain.

Thank you for the opportunity to provide these comments. We understand the difficulty of prescribing a regulation that finds ways consumers could remove fraudulent information from their credit report and we commend you for trying to write a regulation that benefits all.

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