Household Automotive Finance
A Household International Company

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Household

VIA AIRBORNE EXPRESS

ORIGINAL

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Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: **PROPOSED INTERPRETATIONS OF THE FAIR CREDIT REPORTING ACT (12 C.F.R. Part 600)**

Ladies and Gentlemen:

Thank you for this opportunity to comment on the Proposed Interpretations of the Fair Credit Reporting Act ("FCRA")(the "Proposal"). Household Automotive Finance Corporation and its subsidiaries, including Household Automotive Credit Corporation (collectively, "Household") operate a nationwide auto finance business, and service approximately $4.5 billion in consumer auto credit accounts. Because Household is part of Household International, Inc., one of the largest consumer financial services providers in the United States, sharing customer information with our affiliates can result in our customers receiving a wide variety of credit and insurance opportunities that they would not otherwise learn about. Because many customers of Household and its affiliates may not be fully served by traditional financial institutions, we believe that credit information sharing among affiliates can provide valuable services and cost savings to the individuals who choose not to opt out of this system.

We appreciate the effort that the Federal Trade Commission ("FTC") has made to streamline the Proposal with the recently promulgated regulations governing information sharing with third parties (the "Privacy Rule"). In many cases, consistency may lead to reduced burden and greater clarity. There are also circumstances, however, where adopting additional requirements purely for the sake of consistency may add additional burdens which are not justified by the goals of the underlying statute. In particular, the language of section 603 of the FCRA is considerably different from the privacy sections and detailed requirements of the Gramm-Leach-Bliley Act of 1999 (the "GLB Act"). In addition, the potential risks or concerns when a lender shares nonpublic personal information with an unaffiliated third party (the subject of the GLB Act) are usually not present when a lender shares credit information with an affiliate. As a result, complete consistency between the regulations is unwarranted from both a legal and policy standpoint.

We have the following specific concerns:

Effective Date.

Like all lenders nationwide, Household is currently in the process of redesigning a variety of customer forms to comply with the GLB Act and the new Privacy Rule. New FCRA requirements (if adopted as proposed) will require reprinting and redistributing all of these customer forms at a substantial cost. For large companies, this cost may be in the millions of dollars. For this reason, we suggest that the effective date for any new required FCRA disclosures be timed to fall from twelve to eighteen months following the publication of the final interpretations. This will lessen additional printing and distribution costs, allowing companies to make any requisite forms changes while utilizing existing stock. While this timeframe may appear lengthy compared to the effective dates of other new federal regulations, please note that we provide full notice to consumers with respect to affiliate sharing, as required by the FCRA and the GLB Act, and delayed implementation of the Proposal would not harm any consumers because they are currently receiving the disclosures which permit them to opt out if they desire.

Section 5 (Contents of opt out notice).

In creating new mandatory disclosures, we are concerned with the amount of information already required and now proposed to be required for various types of consumer loans. The volume of information that we must currently provide to consumers is often overwhelming. Therefore, we strongly urge you to consider whether there is a significant consumer benefit provided by the new disclosures to consumers required by the Proposal.

Section 5 (which is copied almost verbatim from the Privacy Rule, which, in turn, is taken from section 503 of the GLB Act) goes far beyond the requirements of the FCRA and should be stricken in its entirety. There is no legislative history that supports expanding the FCRA notices to the detail required for GLB notices under section 503 of the GLB Act. To the contrary, section 506(c) of the GLB Act states clearly that nothing in the GLB Act "shall be construed to modify, limit, or supersede the operation of the [FCRA]." Nor does the supplemental information in the Proposal explain why these significant new requirements have been added or what benefit they could possibly provide to consumers. In addition, since most of the details contained in the proposed requirements are required disclosures under the Privacy Rule, there is no benefit to be gained in adopting duplicate requirements, and much potential harm.

The final interpretation should simply provide that financial institutions should provide notice of the consumer's ability to opt out and provide a reasonable means to do so. We support giving financial institutions the flexibility to allow consumers to opt out of sharing with respect to certain types of information or certain types of affiliates.

Section 6 (Reasonable opportunity to opt out).

The Proposal's specific timeframes for opting out are not appropriate. The suggested minimum period would effectively prevent financial institutions from sharing information for an entire thirty days – even if the consumer was sincerely and immediately interested in a product offered by an affiliate through sharing of customer information. While we agree that the definition of a "reasonable period" will differ according to the method by which an individual receives an opt-out notice, we do not think that Congress intended a mandatory waiting period in all cases, particularly if that could disadvantage consumers by precluding information sharing. A possible way to address this situation would be to provide that if a consumer returns an application without opting out, the company may share that individual's information as of the time the application is received (unless the individual subsequently opts out).

In addition, the final interpretation should provide that a company could share information regarding a consumer who specifically consents to such sharing, and that a consumer's consent (including revocation of a previous opt out) may be provided orally.

The requirement that an individual acknowledge receipt of the FCRA opt out notice, if that notice was sent by electronic means, is unnecessary and should be eliminated. As with other requirements in the Proposal, this goes far beyond the mandate of the FCRA, and could raise considerable tracking burdens. This requirement essentially converts what Congress intended as a consumer "opt-out" right into an "opt-in" right. In addition, it might adversely affect consumers who choose to utilize the Internet for a financial transaction, by precluding certain technologies if they cannot provide a method to obtain and record the consumer's specific acknowledgment of receipt. Therefore, we suggest that you modify the Proposal to be consistent with other consumer disclosure provisions, including the Privacy Rule, and rules implementing the Equal Credit Opportunity Act and the Truth in Lending Act, by removing this requirement of acknowledgment. An appropriate alternative, consistent with the FCRA, would be to require that the financial institution be reasonably confident that the consumer has received the FCRA opt out notice if it was sent electronically.

Section 7 (Reasonable means of opting out).

The FCRA requires that an individual be "given the opportunity" to direct that information not be shared with an affiliate. This statutory language has been interpreted in the Proposal to provide that requiring a consumer to write a letter does not give a consumer a "reasonable" opportunity to opt out. The preamble to the Proposal gives no indication why this common operational method, successfully used by a wide variety of companies and their customers for a number of years, should now be rendered illegal. Many of our customers have been able to write letters to us, and have written to us, to exercise their opt out right under FCRA. For a large number of companies, permitting the customer to write a letter may be more cost efficient than developing specific forms or post cards, or implementing a toll-free telephone line. At the same time, we do not agree that letter writing places an inappropriate burden on consumers. Therefore, we recommend that this example of a method that "is not reasonably convenient" be stricken from the Proposal and that letters be specifically permitted.

Section 8 (Delivery of opt out notices).

The FCRA requires that an individual be "given the opportunity" to direct that information not be shared with affiliates. Unlike the privacy provisions of the GLB Act, the FCRA contains no requirement that notice of this opportunity must be in writing. This flexibility contained in the FCRA currently allows lenders that are conducting loan transactions by telephone to give consumers the opportunity to consent to information sharing while they are on the line. By doing so, the consumer may benefit, from not having to provide personal information repeatedly over the telephone, or by qualifying for certain products more easily. The Proposal would take these opportunities away, with its requirement that all notices must be delivered in writing. Such a mandate would restrict consumer choice, customer convenience, and fraud control. The Proposal gives no support for this new requirement, unsupported by the FCRA language, that would have the effect of disadvantaging both financial institutions and consumers. Therefore, it should be eliminated.

We appreciate the opportunity to comment on the Proposal.

Sincerely,

Jeffrey B. Wood
Associate General Counsel

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