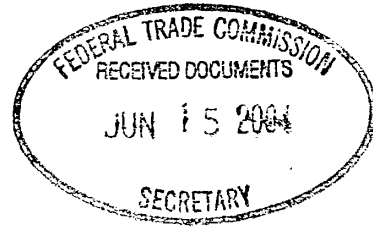


JUNIPER

EXTRAORDINARY partnerships.



June 14, 2004

Federal Trade Commission/Office of the Secretary
Room H-159 (Annex J)
600 Pennsylvania Avenue NW
Washington, DC 20580

RE: FACTA Identity Theft Rule, Matter No. R411011

To Whom It May Concern:

On behalf of Juniper Financial Corp. ("Juniper"), I am pleased to submit this letter in response to the Federal Trade Commission's ("Commission") Notice of Proposed Rulemaking regarding the definitions of "identity theft" and "identity theft report" under the Fair Credit Reporting Act ("FCRA") as amended by the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act"). Juniper is a partnership focused issuer of credit cards, with approximately \$1.3 billion in managed credit card receivables and approximately 700,000 credit card accounts. Founded in 2001, it is one of the fastest growing credit card issuers in the United States. Juniper is an 98% owned subsidiary of the Canadian Imperial Bank of Commerce, a United States Financial Holding Company, with approximately \$208 billion (U.S.) of on book assets and \$559 billion (U.S.) of managed assets.

Comment Summary. As a relatively small but nationwide issuer of credit cards, Juniper is dependent upon a smooth flowing, accurate and effective credit reporting system. Juniper's main concerns with the Commission's proposals are that an overly broad definition of "identity theft" and "identity theft report" and an overly simplistic method for filing identity theft reports could diminish somewhat the effectiveness and accuracy of the credit reporting system in the United States. We at Juniper acknowledge and appreciate the fact that the Commission has acknowledged this concern and has endeavored to focus its definitions and processes and procedures to "prevent individuals who are not identity theft victims from using the Act for unscrupulous purposes such as clearing negative, but legitimate, information from their credit records." It is our opinion, however, that the Commission has not gone far enough in this regard; that the proposed definitions and processes could lead to abusive practices whereby accurate information is deleted from credit reports. Specifically, we are of the opinion that the definition of "identity theft" should be tailored further to exclude attempted

identity theft from its purview and to refer only to the opening of accounts in another person's name or the "taking over" of an account in another person's name. Identity theft reports should be limited to reports filed with a law enforcement official or agency with the power to investigate and refer to prosecution individuals for the filing of a false report. In addition, recipients of identity theft reports should have 30, not 5, days to request additional information and to request any additional information that the recipient deems necessary.

Definition of Identity Theft

The Commission proposes a definition of identity theft as "a fraud committed or attempted using identifying information of another person without lawful authority" While this is an improved definition in some respects, Juniper proposes that the definition of identity theft be amended to eliminate the words "or attempted". This is important because we believe that Congress intended that most of the identity theft remedies provided for the FACT Act be made available to actual victims of identity theft and for law enforcement agencies, credit bureaus and creditors to focus their limited resources on actual instances of identity theft. While it might make sense, as alluded to by the Commission, for an individual, who has learned of an attempt to steal his/her identity, to place an "initial fraud alert" on his/her file, that is already contemplated by the FACT Act. The FACT Act provides that a consumer who in good faith believes that he or she "has been or is about to be" an identity theft victim, may place an initial fraud alert on his or her file. In other words, an individual's ability to file an initial fraud alert regarding an attempted identification theft is not dependent upon adding the words "or attempted" to the definition of identity theft. Similarly, consumers who are the subject of attempted identity thefts already have the ability under FCRA to correct their consumer reports by using the dispute process. In other words, their ability to remove "inquiries" from their files as envisioned by the Commission is likewise not dependent upon adding the words "or attempted" to the definition of identity theft. However, it makes no sense to allow individuals who have been subjected to attempted identity theft to place extended fraud alerts on their file. That would clog up the system with extended alerts regarding instances when attempted identity theft was not successful. Yet extending the definition of identity theft to include "attempted" identity theft might do just that.

In a similar vein, we propose limiting the definition of identity theft to ensure that it refers solely to the opening of accounts in another person's name or the "taking over" of another person's account – where the account plus some sort of identifying information is used. Such a definition would focus FACT Act identity theft remedies on instances where identifying information about an individual is stolen. Juniper is concerned that the Commission's proposed definition of identity theft could cover instances where a cardmember loses a credit card and the card is found and used by someone else – that the unauthorized use of someone else's card without more, would constitute "using identifying

information of another person without lawful authority.” Sections 133 and 134 of the Truth In Lending Act and Section 226.12(b) of Regulation Z already adequately address and provide remedies for the unauthorized use credit cards. Adopting a definition of “identity theft” that possibly includes unauthorized credit card use within its penumbra only serves to dilute the effectiveness of FACT Act by extending identity theft remedies to situations where a person’s identity is not actually stolen. It is for that reason we propose a definition of identity theft that is limited to the actual opening of accounts in another person’s name and the “taking over” another person’s account. By “taking over” we propose to mean when the account (credit card) plus additional information, such as address, is taken over, so that the thief taking over the account actually has the ability to wreak havoc with the individual’s identity as opposed to the simple unauthorized use another person’s card.

Identity Theft Report

Under the FACT Act, victims of identity theft are provided a powerful tool to remedy their situation – the ability to block consumer reporting agencies from reporting, and furnishers from furnishing data resulting from identity theft to consumer reporting agencies. To accomplish this, identity theft victims must file an identity theft report. Congress required the victim of identity theft to file an identity theft report as an indication of the seriousness of the claim of identity theft. The avowed concern, which we at Juniper believe is very real, is that if it is too easy to claim that one is a victim of identity theft, then unscrupulous people could block legitimate consumer report information by making specious identity theft claims, thereby undermining the accuracy and legitimacy of the consumer reporting system.

Accordingly, as stated previously, Juniper proposes that 603.3(a)(2) be amended to include the requirement that the identity theft report be filed “with a federal, state or local law enforcement agency that has the jurisdiction to investigate and refer to prosecution individuals who file false reports with that agency”. Juniper believes that the definition currently proposed by the Commission is too loose in that it enables individuals to file false reports electronically with no fear of penalty. We recognize the Commission’s desire to facilitate the electronic filing of identity theft reports – especially in light of the Commission’s concern about the availability of police reports. At the same time, Juniper shares the countervailing concern expressed by the Commission about the acceptance of identity theft reports at agencies where there is no mechanism designed to “vouch for the truth of each individual complaint.” Accordingly, Juniper proposes a compromise whereby identity theft reports may be filed electronically, but only with governmental agencies who have the ability to investigate and refer to prosecution individuals who file false reports. Hopefully, this would discourage the filing of false reports – and we believe such a requirement is consistent with the statement’s requirement for “appropriate” law enforcement agency.

Juniper would also propose a few minor changes as to the ability of recipients of identity theft reports to request additional information. As drafted, the Commissions' proposal would allow information furnishers such as Juniper to request additional information or documentation to help them determine the validity of the alleged identity theft, provided the request is made not later than five business days after the date of receipt of the law enforcement report. Juniper submits that five days is far too little time – that a thirty day limitation may be more appropriate. At small information furnishers such as Juniper, the five day limitation could be hard to meet in all instances especially if the individual responsible for the function is out sick or on vacation. Even if the person responsible is at work, he/she may need more than 5 days to review the identity theft report to decide whether to request additional information. That would especially be true if fraudulent credit repair shops flood furnishers of information with thousands of bogus identity theft reports in an effort to overwhelm furnishers' operations. Thirty days would be a much more reasonable period. In addition, we believe that a recipient of an identity theft report be permitted to request any additional information it deems necessary for any reason.

Conclusion

Accordingly, we respectfully urge the Commission to consider the recommendations set forth above. Should anyone desire, we at Juniper would be happy to discuss any questions which you may have.

Sincerely,



Clinton W. Walker

CWW/cm