



**Report to Congress  
Under Section 319 of the  
Fair and Accurate Credit Transactions Act  
of 2003**

**December 2010**

**Federal Trade Commission**

Jon Leibowitz, Chairman  
William E. Kovacic, Commissioner  
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Edith Ramirez, Commissioner  
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## Summary

Pursuant to Section 319 of the Fair and Accurate Credit Transactions Act (“FACT Act”), the Commission is submitting its fourth interim report describing the progress on a national study of credit report accuracy. The FACT Act, enacted in December 2003, amends the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* (“FCRA”), and contains a number of provisions designed to enhance the accuracy and completeness of credit reports. Section 319 of the FACT Act requires the FTC to conduct “an ongoing study of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies and methods for improving the accuracy and completeness of such information.” Congress requires the FTC to complete this study by December 2014, when a final report is due. Further, five interim reports are required to be completed every two years from December 2004 onward, until December 2012.

As noted in an earlier report to Congress,<sup>1</sup> this study of credit report accuracy is the first to directly engage the three primary groups that participate in the credit reporting process: consumers, lenders/data furnishers, and the national consumer reporting agencies (“CRAs”). The study design calls for 1,000 consumers to be randomly selected throughout the United States and to review their credit reports with an expert that helps them to identify potential errors. Study participants are encouraged to dispute, via the FCRA dispute process (see below), potential errors that the expert believes could have a material effect on a person’s credit standing. Upon tracking the outcome of all disputes, the study computes the change in the consumer’s credit score for potential and confirmed material errors.

These data will provide a basis to analyze credit report accuracy. Importantly, the study will estimate, within a stated margin of error, the proportion of consumers who would encounter one or more confirmed material errors over their three credit reports from the CRAs. The study will also reveal the main types of confirmed material errors, their relative frequencies, and the impact of such errors on a consumer’s credit standing.

The final study design, which was approved by OMB in December 2009, is presently in the field.<sup>2</sup> The collection phase of the study, including the contractor’s report to the FTC, is expected to be finished by October 2011. The Commission expects that the next interim report to Congress, due in December 2012, will provide a full analysis of the collected data.

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<sup>1</sup> *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003*, Federal Trade Commission, December 2004, at 22-31. This report may be accessed at the FTC’s Web site: <http://www.ftc.gov/reports/facta/041209factarpt.pdf>.

<sup>2</sup> In keeping with requirements under 5 C.F.R. § 1320.8(d), the FTC published federal register notices explaining the design of the study and soliciting public comment. *See*, 74 Fed. Reg. 53243 (Oct. 16, 2009); 74 Fed. Reg. 35,191 (July 20, 2009). The FTC received three comments, available at <http://www.ftc.gov/os/comments/facta319study/index.shtm>.

## Overview of Design of National Study of Credit Report Accuracy

The study's overall design was informed by the results of two pilot studies.<sup>3</sup> These preliminary studies demonstrated the general feasibility of a methodology that employs consumer interviews but also revealed several challenges for a national study. The challenges included identifying methods for achieving a more representative sampling frame, increasing the response rates, and easing the burden of completing the study. Importantly, compared to the national average for credit scores, consumers with relatively low scores were under-represented in both studies.

FTC staff has devised a procedure for obtaining a nationwide representative sample of credit reports so that inferences may be drawn, up to a certain level of statistical confidence, about the accuracy of credit reports in general. About 1,000 consumers are randomly selected throughout the United States to review their credit reports with an expert under contract to the FTC.<sup>4</sup> With the consumer's permission, the contractor engages the participants in an in-depth review of their credit reports obtained from the three national CRAs: Equifax, Experian, and TransUnion. The focus of the review is to identify potential errors that could have a material effect on a person's credit standing.<sup>5</sup> All credit reports with alleged material errors are sent to an analyst at the Fair Isaac Corporation ("FICO") for an initial re-scoring, treating all of the consumer's allegations as provisionally true. These reports are sent for a second rescoring if some, but not all, of the alleged material errors are confirmed by the dispute process. Two unique features of this study are: (1) the categorization and counting of alleged and confirmed material errors,<sup>6</sup> and (2) FICO's rescoring of credit reports to measure the impact of such errors on a consumer's credit standing.

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<sup>3</sup> See *Report to Congress Under Section 319 of the FACT Act*, Federal Trade Commission, December 2006 and 2008, respectively. The 2006 Report reviewed the first pilot study and the 2008 Report reviewed the second. These reports may be accessed at the FTC's Web site: December 2006 Report: [http://www.ftc.gov/reports/FACTACT/FACT\\_Act\\_Report\\_2006.pdf](http://www.ftc.gov/reports/FACTACT/FACT_Act_Report_2006.pdf); December 2008 Report: <http://www.ftc.gov/opa/2008/12/factareport.shtm>.

<sup>4</sup> The FTC's study contractor is a research team comprised of members from the Center for Business and Industrial Studies at the University of Missouri-St. Louis, the Norton School of Family and Consumer Sciences at the University of Arizona, and the Fair Isaac Corporation. This same research team was employed for the two pilot studies. The credentials of the research team are appended to the December 2008 Report.

<sup>5</sup> As individuals are enrolled, they begin their participation in the study. To date, 295 persons are enrolled and participating in the study.

<sup>6</sup> In this report, the phrase "confirmed material error" refers to material information on a credit report that a consumer alleges to be erroneous in this study and is, in fact, confirmed as erroneous by the FCRA dispute process (the latter is discussed below). The study will provide an estimate of the frequency of confirmed material errors based on our sample.

## Sampling Procedure

The relevant population for the study is comprised of adults who have credit histories with the national CRAs. To study these credit histories, FTC staff first obtained a very large random sample – names and other information of 200,100 randomly selected individuals – from the databases of the CRAs. This is the pool of individuals selected for *possible contact* and they constitute the “master list” for the study.<sup>7</sup> Most of the individuals on the master list will not receive invitation letters to participate in the study, and FTC staff is sending invitations to a considerably smaller sample (about 15%) of individuals from the master list. Based on the results of the pilot studies, FTC staff is sending proportionally more invitations to individuals with below-average credit scores to ensure that these consumers are adequately represented in the study.<sup>8</sup> As the set of participants develops, the major demographic characteristics of the participants are analyzed and compared to national norms. As described below, the sampling is then adjusted to ensure that the final set of approximately 1,000 participants is representative in its characteristics and credit scores.

A credit score is a single statistic that is used to summarize the information in a credit report.<sup>9</sup> The first step toward obtaining a representative sample of credit reports is thus to ensure that the credit reports of the respondents collectively conform to the national distribution of scores. This conformity of credit scores helps ensure that the underlying credit reports of the solicited consumers are reflective of credit reports in general. After a substantial set of individuals have agreed to join the study (e.g., 300 people), FTC staff will have obtained an initial sample. This sample will be compared with the distribution of credit scores, age, gender, and regional diversity in the master list. Statistically significant differences between this initial sample and the master list would reflect the impact of non-participation. From this information FTC staff will be selectively drawing, from the master list, new individuals to be contacted in an effort to compensate for these differences.<sup>10</sup>

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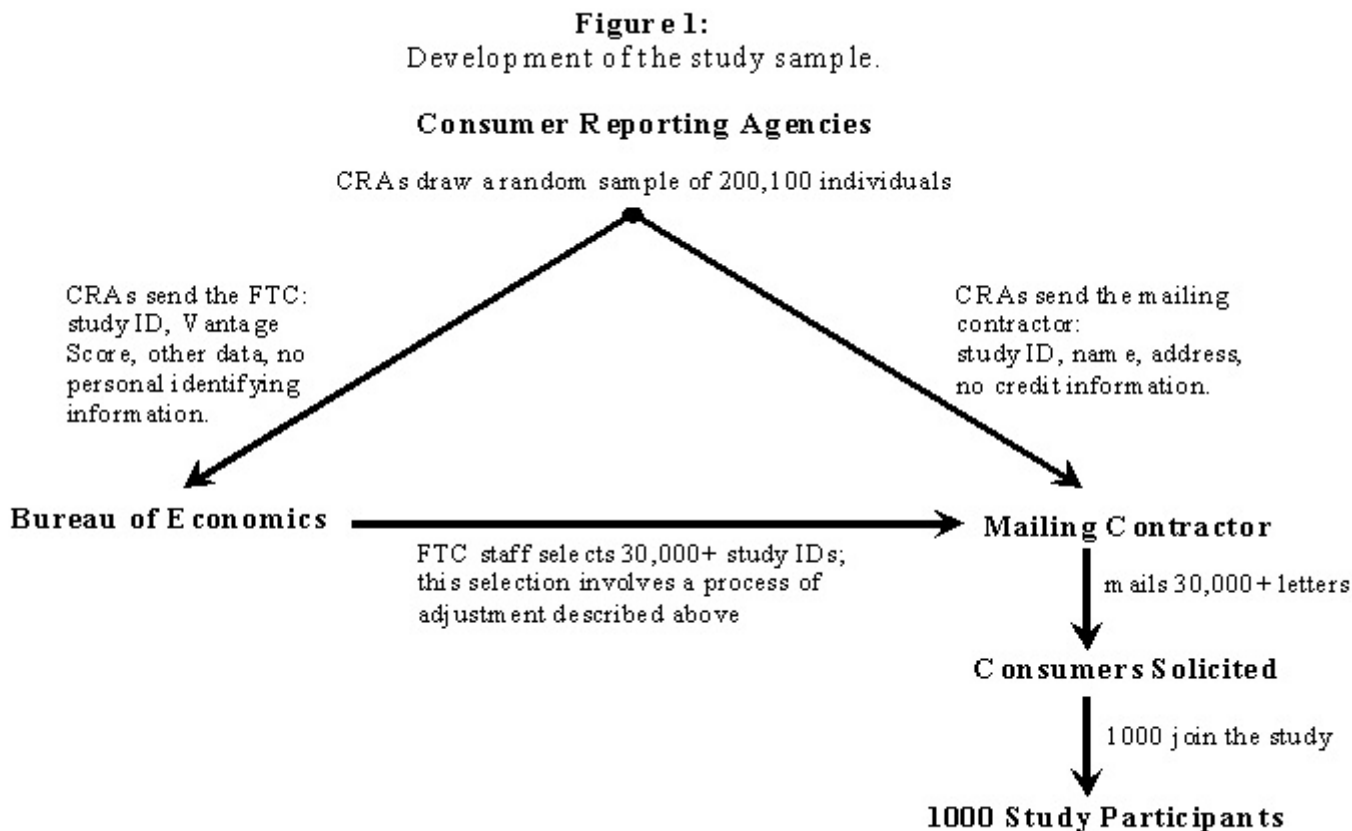
<sup>7</sup> The information in this sample, which is comprised of names, addresses, gender, age, and initial credit scores (Vantage Scores), has been provided voluntarily and confidentially by the CRAs. We thank the CRAs for providing this information in connection with the mandated study; these data have laid the foundation for developing a nationally representative sample of consumers and credit reports. This information, as well as any credit report information provided by participants, is maintained and used by the FTC and its contractor under stringent procedures that protect the privacy and security of the data. Most importantly, credit-related data are maintained separately from personal identifying information; see further discussion below.

<sup>8</sup> December 2008 Report, at 9 -10.

<sup>9</sup> In the consumer credit market, a credit score is used to summarize the information in a credit report and predict the risk of a consumer’s default on a loan or credit transaction.

<sup>10</sup> For more detail on the methods used, see FTC Statement of Work; attached.

All participation is voluntary, so the degree of representativeness cannot be fully assessed during the development phase of the sample. A detailed review of non-respondents will provide a further assessment of the degree to which the study has achieved a representative sample of consumers and credit reports on a range of stated characteristics.<sup>11</sup> Figure 1 summarizes the development phase of the study sample.<sup>12</sup>



<sup>11</sup> Staff will obtain redacted credit report information, as well as credit scores, for the full class of *non-respondents*, i.e., consumers who were sent invitation letters and did not participate. For non-respondents, credit reports and scores are generated and maintained without any name, address, or personal identifier other than ID numbers assigned for the purpose of this study. Using the redacted reports and related credit scores, staff can assess whether non-respondents had significantly different credit scores or credit histories, or certain demographic differences, from those who agreed to participate.

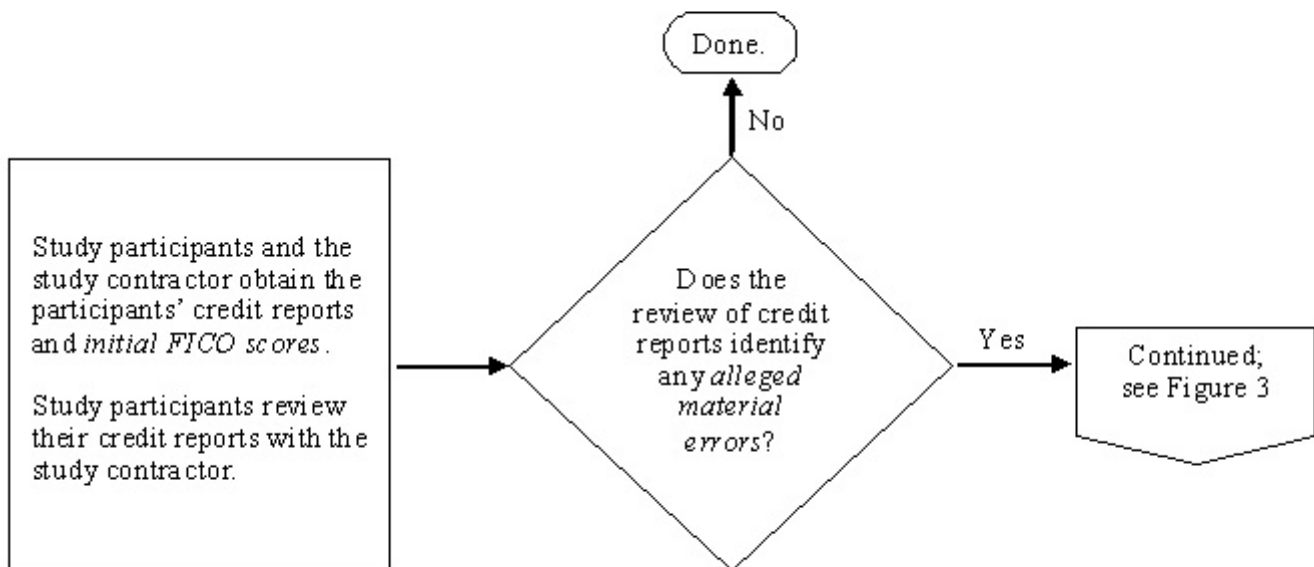
<sup>12</sup> In line with the experience of the pilot studies, the response rate is expected to be low (around 3%). In reviewing credit reports, this study addresses matters that many consumers consider private and personal, possibly causing a reluctance to participate. As explained above, the design of the study allows FTC staff to obtain information about non-respondents and determine whether they are significantly different in certain characteristics from the respondents.

## Credit Report Review and Analysis

As noted above, there has been no prior study of credit report accuracy that engages all three of the primary participants in the credit reporting process: consumers, lenders/data furnishers, and the CRAs. This study engages these parties and employs a nationwide random sample of consumers and credit reports that collects data regarding: the type and quantity of alleged material errors on credit reports, the type and quantity of confirmed material errors determined by the FCRA dispute process, and the impact of any such confirmed errors on the consumers' FICO credit scores. Briefly, this information is gathered as follows. The contractor reviews credit reports with participants to help identify alleged inaccuracies, and the research team evaluates alleged errors for materiality.<sup>13</sup> This initial review process is depicted in Figure 2.

**Figure 2:**

Consumers review their credit reports with the study contractor.

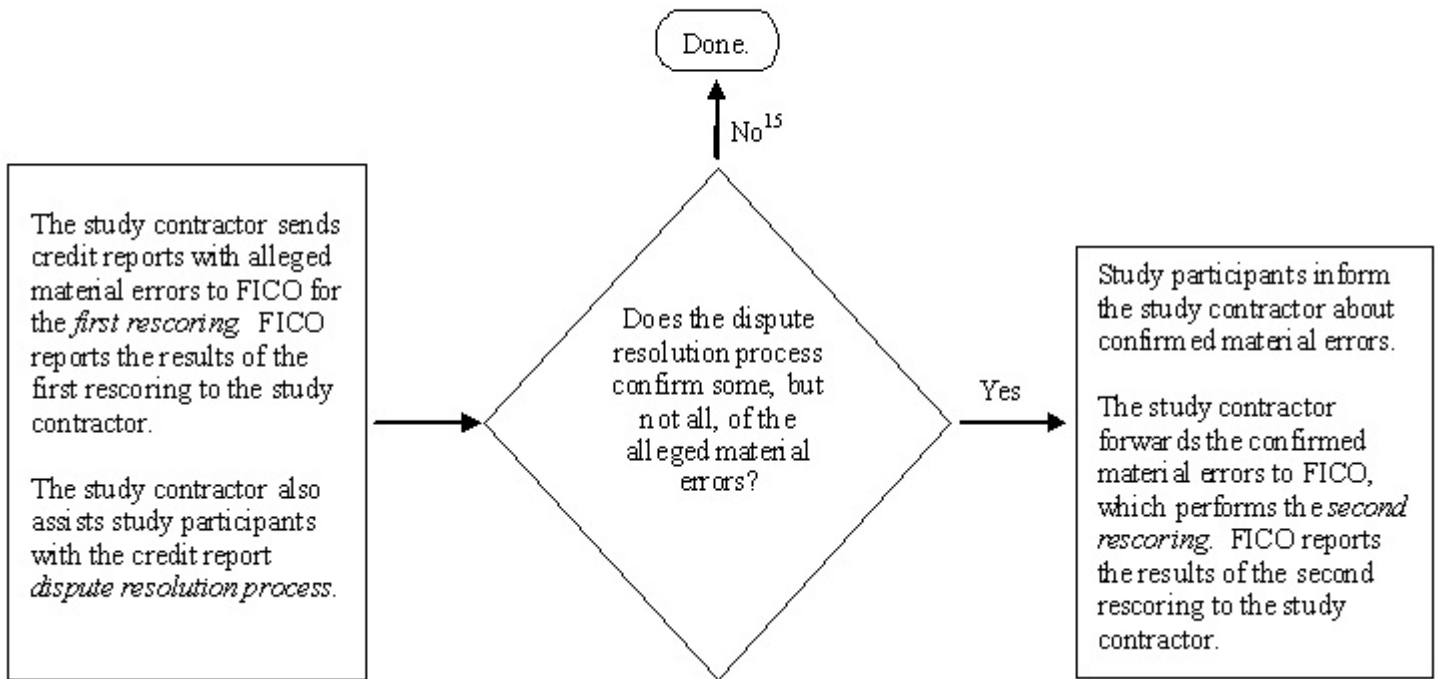


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<sup>13</sup> In consultation with FICO's analyst on the research team, an alleged error is deemed material if the consumer alleges an error regarding any of the following: (1) negative items (such as late payments); (2) public derogatories (such as bankruptcy or lien(s) placed on property); (3) accounts sent to collection; (4) number of inquiries for new credit; (5) outstanding balances not attributable to normal monthly reporting variation; (6) accounts on the report not belonging to the person who is the subject of the report ("not mine"); or (7) duplicate entries of the same information (e.g., late payments or outstanding obligations) that were double-counted in the reported summaries of such items. The contractor's review of these matters employs further detail in each of these categories.

Consumers who maintain that there are material errors on their credit reports are encouraged to file a formal FCRA dispute, so as to obtain a review of these items by lenders/data furnishers and the CRAs.<sup>14</sup> Credit reports with alleged material errors are sent to FICO for an initial rescore. After the completion of a dispute, FICO performs a second rescore of the credit report if some, but not all, of the alleged material errors are confirmed by the dispute resolution process.<sup>15</sup>

**Figure 3:**  
Consumers challenge errors and certain credit reports are rescored.



<sup>14</sup> The research team does not encourage filing disputes that are not material. Nonetheless, if a consumer wants to dispute certain items (material or not), the contractor prepares a dispute letter. The consumer signs the letter and sends it to the CRA pursuant to the FCRA, which permits consumers to dispute any credit report item they believe to be inaccurate. After a reinvestigation process that involves the lender/data furnisher, the CRA will: delete the disputed item; change or modify the item (specifying the change); or maintain the item as originally reported. A CRA may also delete a disputed item based on its own review, including the expiration of a statutory time frame. The study tracks the outcome of all disputes. Items for which a consumer and lender do not agree, and where the CRAs take no further action, are treated as unresolved.

<sup>15</sup> If all of the alleged material errors are confirmed by the dispute resolution process, then a second rescore is unnecessary since it would give the same result as the first rescore.

(continued...)



These data will provide answers, at a stated level of statistical confidence, to questions that have not been addressed by earlier studies in a reliable manner. For example, regarding all consumer alleged errors, what proportion is material to creditworthiness? What proportion of material allegations is confirmed as erroneous by the FCRA dispute process? If a credit report is drawn at random, what is the probability that the report would contain one or more confirmed material errors? Furthermore, focusing directly on consumers and their credit standing, the study will statistically estimate the proportion of American consumers who would encounter one or more confirmed material errors across their three credit reports. The study will reveal the main types of confirmed material errors, their relative frequencies, and impact of such errors on a consumer's credit standing. Overall, the study will categorize errors by type and seriousness in terms of potential consumer harm.

The methodology of the study gives estimates of confirmed errors that have a negative impact on a credit report. As noted in prior reports, however, the study does not analyze two types of data that potentially involve errors. First, it does not address possible errors that may be in the consumers' favor.<sup>16</sup> Consumers more readily identify potential errors that hurt their credit scores, and either ignore or do not recognize potential errors that improve their scores. There is no known method in the context of a consumer review of credit reports that would be likely to identify errors having a positive impact on a consumer's credit report. Second, the study does not address potential "errors of omission." In view of the different reporting cycles of data furnishers and the voluntary basis on which credit-related information is reported to a CRA, there may be different reasons why a certain anticipated item is not on a credit report. We have no cost-effective means of reliably assessing whether an error of omission (e.g., possibly incomplete information) has occurred in a credit report.<sup>17</sup>

## **Privacy and Security of the Data**

In view of the potentially sensitive nature of the information being collected by this study, great care has been taken to establish procedures that protect the privacy and security of personal data. Chief among these procedures are the following: maintaining credit-related data separately from personal identifying information, requiring the FTC's contractors to execute confidentiality agreements, including specific contractual obligations that address the privacy and security of the data, and limiting any data access to those personnel of the FTC and its contractors who have a need to work with the data during the course of the study.

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<sup>15</sup>(...continued)

Similarly, if none of the alleged material errors are confirmed, then a second rescoring is unnecessary since it would give the same result as the initial FICO score. A second rescoring is needed only when some (but not all) of the alleged material errors are confirmed by the dispute resolution process.

<sup>16</sup> December 2006 Report, at 10.

<sup>17</sup> December 2008 Report, at 8-9.

In connection with this study, at no point will FTC staff possess any personal identifying information of study participants, whether of a sensitive or non-sensitive nature, and staff will not know the identity of any participant or non-respondent. For the duration of the study, the only parties who possess and review personal identifying information, including certain credit report information, are: (1) the FTC's study contractor, upon receiving the consumer's permission to review the individual's credit reports, and (2) the CRAs, who have provided the master list described above. Indeed, the CRAs collectively possess all data on the master list, while the FTC and its contractors receive, respectively, only part of that information. The CRAs have assigned abstract study ID numbers to all names on the master list. The FTC's mailer (i.e., the contractor responsible for mailing the invitation letters) has received the names, addresses, and study IDs directly from the CRAs, and FTC study staff has received study IDs, age, gender, credit scores, and zip codes. (See Figure 1.)

As consumers respond to the invitation letters and register with the study contractor (the University of Missouri-St. Louis), the individuals give express permission for the contractor to review their credit reports for accuracy. In turn, the contractor communicates to FTC staff the participants' study IDs, along with certain redacted credit report information.<sup>18</sup> An individual's study ID is the only identifier used in communications between staff and the FTC's contractors about any respondent, potential respondent, or non-respondent. The FTC has published a Privacy Impact Assessment (PIA), which gives a full review of the procedures used in this study. Importantly, the procedures ensure that the study does not collect, maintain, or review any sensitive information in identifiable form.<sup>19</sup>

## **Conclusion**

The Commission anticipates that the collection phase of the study will be finished by October 2011 and that the December 2012 report will then provide a full review of the study's findings. If deemed appropriate, the December 2012 report may also include recommendations for legislative or administrative action.

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<sup>18</sup> Interested parties may consult the Statement of Work, provided in Attachment One.

<sup>19</sup>*Privacy Impact Assessment for the Registration Web Site for the National Study of Credit Report Accuracy*, October 2010. The document may be accessed at the FTC's Web site: <http://www.ftc.gov/ftc/privacyimpactassessment.shtm>.

## List of Attachments

- Attach. 1      FTC Statement of Work for 319 FACT Act Study\*
- Attach. 2      Federal Register Notice, July 20, 2009
- Attach. 3      Federal Register Notice, October 16, 2009
- Attach. 4      Privacy Impact Assessment, FTC, October 2010

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\* During January 2010, the FTC solicited competitive bids for performing certain work for the 319 FACT Act Study. The attached document gives the Statement of Work. The complete solicitation may be found on *FedBizOps*, FTC-10-Q-0007, January 22, 2010.

<b>SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS</b> <i>Offeror to Complete Blocks 12, 17, 23, 24, &amp; 30</i>					1. Requisition Number 29-00454	PAGE 1 OF 14		
2. Contract No.		3. Award/Effective Date		4. Order Number		5. Solicitation Number FTC-10-Q-0007	6. Solicitation Issue Date Jan 22, 2010	
7. For Solicitation Information Call:		a. Name Sheila Hopes shops@ftc.gov		b. Telephone Number (No collect calls) 202/326-2588		8. Offer Due Date/Local Time March 5, 2010 / 12:00 PM		
9. Issued By  OFFICE OF ACQUISITION FEDERAL TRADE COMMISSION 600 PENN. AVENUE N.W. ROOM 779 WASHINGTON, D.C. 20580		Code 0617-04		10. This Acquisition is <input checked="" type="checkbox"/> Unrestricted <input type="checkbox"/> Set-Aside % for <input type="checkbox"/> Small Business <input type="checkbox"/> Emerging Small Business <input type="checkbox"/> HUBZone Small Business <input type="checkbox"/> Service-Disabled Veteran-Owned 8(a) NAICS: 541910 Size Standard: _____		11. Delivery for FOB Destination Unless Block is Marked.  <input type="checkbox"/> See Schedule		12. Discount Terms
15. Deliver To OFFICE OF ACQUISITION FEDERAL TRADE COMMISSION 600 PENN. AVENUE N.W. ROOM 779 WASHINGTON, D.C. 20580		Code 0617-04		16. Administered By		Code		
17a. Contractor/Offeror		Code		Facility Code		18a. Payment Will Be Made By		Code
Telephone No.		TIN:		17b. Check if Remittance is Different and Put Such Address in Offer. <input type="checkbox"/>		18b. Submit Invoices to Address Shown in Block 18a Unless Box Below is Checked. <input type="checkbox"/> See Addendum.		
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT		
25. Accounting and Appropriation Data					26. Total Award Amount (For Govt. Use Only)			
<input checked="" type="checkbox"/>	27a. Solicitation incorporates by reference FAR 52.212-1, 52.212-4. FAR 52.212-3 and 52.212-5 are attached. Addenda <input checked="" type="checkbox"/> are <input type="checkbox"/> are not attached							
<input type="checkbox"/>	27b. Contract/Purchase Order incorporates by reference FAR 52.212-4. 52.212-5 is attached. Addenda <input type="checkbox"/> are <input type="checkbox"/> are not attached							
<input type="checkbox"/>	28. Contractor is required to sign this document and return _____ copies to Issuing Office. Contractor agrees to furnish and deliver all items set forth or otherwise identified above and on any additional sheets subject to the terms and conditions specified herein.			29. Award of Contract: Reference _____ Offer Dated _____. Your offer on Solicitation (Block 5), including any additions or changes which are set forth herein, is accepted as to items:				
30a. Signature of Offeror/Contractor				31a. United States of America (Signature of Contracting Officer)				
30b. Name and Title of Signer (Type or Print)		30c. Date Signed		31b. Name of Contracting Officer (Type or Print)		31c. Date Signed		
32a. Quantity in Column 21 Has Been <input type="checkbox"/> Received <input type="checkbox"/> Inspected <input type="checkbox"/> Accepted, and Conforms to the Contract, Except as Noted: _____								
32b. Signature of Authorized Government Representative			32c. Date		32d. Printed Name and Title of Authorized Government Representative			
32e. Mailing Address of Authorized Government Representative					32f. Telephone Number of Authorized Government Representative			
					32g. E-mail of Authorized Government Representative			
33. Ship Number		34. Voucher Number		35. Amount Verified Correct For		36. Payment <input type="checkbox"/> Complete <input type="checkbox"/> Partial <input type="checkbox"/> Final		37. Check Number
<input type="checkbox"/> Partial <input type="checkbox"/> Final		38. S/R Account Number		39. S/R Voucher Number		40. Paid By		
41a. I certify this account is correct and proper for payment				41b. Signature and Title of Certifying Officer		41c. Date		42a. Received By (Print)
						42b. Received At (Location)		42c. Date Rec'd (YY/MM/DD)
								42d. Total Containers

**SCHEDULE Continued**

Item No.	Supplies/Services	Quantity	Unit	Unit Price	Amount
0001	<p>Conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). The national study plans to employ both a study contractor and a mailing contractor, and it further plans to obtain the assistance from a national credit reporting agency in identifying a large nationwide sample of potential respondents.</p> <p>Please see Section C - Description/Specifications/Work Statement</p> <p>The contractor's proposal for this study shall include a detailed work plan. The plan shall be divided into six (6) periods detailing how the contractor will execute and complete this project over a total of 66 weeks. Please see work statement for more details.</p>	1	LT	_____	_____

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1. STATEMENT OF WORK ..... 4 - 14\*

\*Remainder of the public solicitation is not relevant for attachment to the December 2010 Report to Congress. Complete solicitation may be found at Fed BizOps; Solicitation FTC 10-Q-0007; Jan 22, 2010.

## 1. STATEMENT OF WORK

**SECTION C**  
**Description/Specifications/Work Statement**  
**(Study Ktr)**

**C. 1 Background**

The FTC plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). The overall design for this study has been announced in federal register notices.<sup>1</sup> Potential contractors for the study may review these notices so as to better understand the context for the scope of work. Among other things, the notices summarize extant FTC Reports to Congress (with Web site references) regarding two pilot studies. In contrast to these pilot studies, the FTC now plans to employ both a *study contractor* and a *mailing contractor*, and it further plans to obtain the assistance from a national credit reporting agency in identifying a large nationwide sample of potential respondents.

**C.2 Scope of Work to be Performed by the Study Contractor**

*Part 1.* In broad terms, the required tasks are the following (further detail in Part 2):

Task 1. Describe the procedures used by the contractor to ensure that all sensitive data (whether in paper or electronic format) are appropriately secured, stored, transmitted, and ultimately disposed of, as consistent with the guidelines in the FTC's Safeguards Rule.<sup>2</sup>

Task 2. Develop a Web site at which consumers can review the steps of the study and, if interested, register to participate in the study, inclusive of providing an electronic signature for their consent to the terms of the study. For those who do not have Internet access, provide an alternative procedure to mail the appropriate disclosures and study steps to the respondent and then receive the enrollment information and the consumer's signed consent in paper form.

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<sup>1</sup> The respective URLs for July 2009 and October 2009 notices are:

<http://www.ftc.gov/os/fedreg/2009/july/090720nationalcollection.pdf> ;

<http://www.ftc.gov/os/fedreg/2009/october/091016faircreditcollection.pdf> .

<sup>2</sup> See, <http://www.ftc.gov/bcp/online/pubs/buspubs/safeguards.htm>. The FTC's Safeguards Rule addresses three basic areas: how employees or others handling the data are managed (i.e., instructions, training, limitations, discipline, etc.); how information systems are secured (i.e., storage, transmission, disposal, etc.); and how system breaches or failures are addressed (i.e., prevention, detection, response, etc.). As the guidance emphasizes, the requirements of the Rule are designed to be flexible and each institution may implement safeguards appropriate to the circumstances. As part of the safeguards, the contractor and any subcontractors who are part of the contractor's team shall be required to sign the FTC's *Nondisclosure Agreement For Contractors* (attached).

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Task 3. Construct a nationwide random sample in a range of 750 - 1,000 participants who have given the contractor permission to review their credit reports (re sample size, see detail in Part 2). Among various goals in creating the sample, chief is to obtain a set of consumers having a distribution of credit scores that matches, i.e., is not statistically different from, the national distribution of credit scores. The task of obtaining the desired distribution of scores is accomplished in close consultation with FTC staff, involving the creation of a designated database (called "FPAR"; see Part 2). The contractor's proposal shall identify the type of score to be used; e.g., a FICO score or some other score.

Task 4. State the procedure whereby study participants (hereinafter, *participants* or *consumers*) draw their credit reports from the three national consumer reporting agencies – Equifax, Experian, and TransUnion (the "CRAs").<sup>3</sup> The contractor shall budget funds from the proceeds of the contract in order to pay for participant credit reports and credit scores. As further explained in Part 2, the contractor shall also budget funds to pay up to \$50,000 for financial incentives relating to consumer participation (see detail on Task 4, Part 2).

Task 5. Train and use *consumer coaches* who will work with the consumers to (a) examine their credit reports in-depth, (b) help the consumers identify potential errors, and (c) help clear up common misunderstandings they may have about information in

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<sup>3</sup> The three credit reports for an individual consumer must be drawn on the same day; reports that pertain to different consumers may be drawn on different days.



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their reports.<sup>4</sup> Further, the contractor shall have training materials and procedures to ensure that different coaches are consistent in how they instruct and interview the consumers.

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<sup>4</sup> The task thus involves helping consumers distinguish between a misunderstanding and a potential error, and may involve educating a participant. As one example, a divorced person may not recall an earlier loan jointly signed with the ex-spouse; she may further believe that, after a divorce, information about this loan is removed from her credit report. Or, the consumer may believe that Credit Bureau A was deficient in its report simply because Credit Bureau B gave certain correct information, which was not contained in A's report. It is important that the expertise of the contractor includes an awareness of common consumer misunderstandings and knowing how to advise the consumer.

Task 6. Present a list of credit-related factors that will be employed to identify a *material dispute*. At a minimum, this list shall include criteria specified in Part 2. The contractor's proposal may present additional factors that have bearing on a consumer's creditworthiness (i.e., factors that have bearing on eligibility for credit, terms of credit, cost of insurance, etc.). The criteria shall apply to all credit scores and the contractor shall not use a "cut-off" score (i.e., a designated score above which the stated criteria would not be employed).

Task 7. Facilitate a participant's contact with CRAs or data furnishers to dispute credit report items that the participant alleges to be inaccurate. For consumers who have alleged material errors and expressed an intention to file a dispute, the contractor shall prepare a dispute letter and also provide a stamped pre-addressed envelope to the relevant CRAs.<sup>5</sup> The contractor will ascertain from the consumer whether the letter correctly describes the alleged error(s); upon confirmation, the participant shall sign and send the letter. (The contractor shall state and employ a procedure to discern whether the consumer has sent the dispute letter.)

Task 8. Determine any changes in the participant's credit score resulting from changes in credit report information in the context of a dispute. As part of the comparison between "before" and "after" credit scores for disputed items, the contractor must have – and shall employ – the expertise to rescore a credit report regarding potential changes directly related to the contractor's review (i.e., a rescoring of the consumer's *frozen file* in regard to alleged errors). As explained in Part 2, rescoring will apply to alleged material errors and (separately) to errors that are confirmed via the FCRA dispute process.

Task 9. Budget funds from the proceeds of the contract in order to obtain new credit reports and scores from the CRAs for those consumers who have disputed credit report information.

Task 10. As specified in Part 2, assist FTC staff in preparation for a non-response bias study.<sup>6</sup> The responsibility for performing a non-response bias study in keeping with OMB regulations will be assumed by FTC staff. Certain data collected by the contractor will be useful in aiding the FTC in performing its study of the non-respondents (see Part 2).

In developing the procedures for implementing the tasks, the proposal shall include, where feasible, written protocols; specifically, it shall include written protocols for (a) the initial screening of respondents, (b) the in-depth review of credit report information, and (c) formats used to tabulate the results of each credit report review. The proposal shall also provide copies of training materials

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<sup>5</sup> Consumers who allege immaterial errors should not be encouraged to file a dispute. Regarding immaterial disputes, the contractor shall still *offer* to prepare a dispute letter for all consumers who want to dispute information not deemed to have bearing on creditworthiness. Instructions on how to file shall be made available to all study participants.

<sup>6</sup> The likely need to address a potential non-response bias is discussed in the cited FRN of July 20, 2009 (page 35194).

for the consumer coaches and the contractor's follow up letter sent to consumers after their receipt of the official FTC invitation letter.<sup>7</sup>

*Part 2. Further detail and information regarding the contractor's required tasks.*

*Detail on Tasks 1 & 2 (safeguarding the data and the use of a registration Web site)*

(A) These tasks will involve a Privacy Impact Assessment (PIA) undertaken by the FTC in cooperation with the contractor. The nature of this assessment will be similar to the PIA performed in the second pilot study.<sup>8</sup> The registration Web site shall be pre-tested and ready for use by the end of 6 weeks from the date of a contract award. In the event that a contractor believes such a time frame could not be met, a detailed justification must be presented in the contractor's proposal.<sup>9</sup>

(B) In consultation with FTC staff, the registration procedure will include a page with certain closed- ended questions that address a consumer's experience with, or knowledge of, credit-related matters (e.g., whether the consumer is in the market for a mortgage or car loan, ever looked at their credit report before, ever disputed credit report information, and other questions pertinent to their experience/knowledge of credit-related matters).<sup>10</sup>

(C) in consultation with FTC staff, a successful contract award will involve procedures that ensure that all credit-related data are maintained separately from personal identifying information and that all communications between FTC staff and the contractor regarding potential respondents, actual respondents, or non-respondents will occur only via abstract ID numbers assigned for the purpose of the study.

*Detail on Task 3 (recruitment phase of the study and the creation of the sample)*

The contractor's planning for the study shall consider two proposals for sample size, namely N = 750 and N =1,000.<sup>11</sup> For either case, the contractor shall develop a designated database, called the "FTC Participant Response Database" ("FPAR") in EXCEL format. FPAR will contain no personal identifying information; in particular, it will not contain the name, address, or social security number of any participant. As responses are received through the

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<sup>7</sup> The sending of FTC invitation letters is handled by the FTC's mailing contractor. Further, in consultation with FTC staff, the study contractor shall send a follow up letter that identifies the study contractor to the consumer and reaffirms the invitation. Staff estimates that over the course of the study, up to 10, 000 such follow up letters from the study contractor may be needed. (In addition, FTC mailings may include a second agency letter to certain potential respondents; this 2<sup>nd</sup> FTC letter would *not* require a follow up letter from the study contractor.)

<sup>8</sup> See, <http://www.ftc.gov/os/2008/12/P044804privacyimpactatt2.pdf> . Use of the registration Web site for the national study cannot commence until a PIA has been completed.

<sup>9</sup> n/a

<sup>10</sup> In order to expedite this inclusion, and not as a critical element for FTC evaluation of proposals, potential contractors are invited to submit their formulation of related questions.

<sup>11</sup> The study sample is potentially below the original plan of 1,000 participants. Reduction is uncertain at this time.

registration Web site and the contractor has drawn the person's credit reports and scores, the contractor will create a (row) record for each respondent with the following *initial* information: abstract ID number (as stated in the participant's FTC invitation letter), credit score, ZIP code, age, gender, ethnicity/race, the date stated on the FTC letter (month-day-year in numerical format), and the date the person replied to the letter through the registration Web site. The study contractor will share FPAR with FTC staff upon request. There will be multiple requests over the course of the recruitment phase. FTC staff will use FPAR information to send successive waves of invitation letters. By targeting the letters to desired subsets of respondents, a sample with desirable properties will be developed; for fuller context, see cited FRN, July 20, 2009 (P35194).

*Detail on Task 4 (drawing the consumer's credit reports and the payment of incentives)*

(A) FTC staff anticipates that securing the reports will involve directing the consumers to some Web site, e.g., the Web site(s) of Equifax, Experian, and TransUnion, or to some other designated Web site that is used to draw credit reports. (As an example, see the procedure used in the second pilot study.) For consumers who do not have Internet access – expected to be a small minority of the sample – the contractor shall provide a procedure to mail appropriate disclosures and study steps to the respondent and then receive the enrolment information and the consumer's signed consent in paper form. Further, for such consumers, the contractor shall provide either (a) one-time Internet access to the participant for drawing the credit reports by providing a payment for (up to) 1 hour use at an Internet café or public library, or (b) have a procedure whereby the *contractor* sets up accounts with the CRAs and submits the consumer's information to draw the credit reports (e.g., the contractor enters the consumer's SSN, address, date of birth, etc.). As needed, the consent form certifying the consumer's agreement to the terms of the study will further provide written consent for the latter procedure.

(B) FTC invitation letters will state financial incentives for consumer participation. The contractor shall budget funds to pay for these incentives and may use \$37,500 as a reliable estimate for a study involving N = 750 participants and may further use \$50,000 as a reliable estimate for N = 1,000 participants.<sup>12</sup>

*Detail on Task 5 (use and training of consumer coaches)*

Depending on the study's sample size, the contractor's proposal shall provide in range of 8 - 10 consumer coaches, so that the study sample may be divided into consumer groups of not more than 100 persons per group. The assignment of consumers to the coaches shall be randomized by a procedure set forth in the proposal. At the conclusion of the study, the

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<sup>12</sup> The study contractor does not send the official invitation letter. To aid the contractor's planning for the study, FTC staff supplies the following information. Invitation letters sent to individuals with credit scores equal to or above a FICO- equivalent score of 700 will offer the participant \$25 upon completion of their work. Individuals with FICO-equivalent scores below 700 will be offered \$25 upon agreeing to participate and another \$50 at completion of their work. It is estimated that approximately half of the participants will be paid \$25 and the remaining half paid \$75. FTC staff will inform the contractor of the ID numbers of participants who qualify for the stated payments. The FTC will reimburse the contractor for any incentive payments beyond the guidelines stated above. As an example involving reimbursement, if a successful contract award is granted for 750 participants and (hypothetically) the contractor pays \$39,000 for incentives, the FTC will reimburse the contractor for the unexpected \$1500.

contractor shall perform a statistical analysis to determine whether study results were significantly different across the coaches.<sup>13</sup>

*Detail on Task 6 (criteria for a material dispute)*

The criteria shall include the following. An alleged error is deemed *material* if the consumer alleges an error regarding any of: (1) negative items (such as late payments); (2) public derogatories (such as bankruptcy); (3) accounts sent to collection; (4) number of inquiries for new credit; (5) outstanding balances not attributable to normal monthly reporting variation; (6) accounts on the report not belonging to the person who is the subject of the report (“not mine”); or (7) duplicate entries of the same information (e.g., late payments or outstanding obligations) that were double-counted in the reported summaries of such items. The contractor may propose additional factors that have bearing on a consumer’s creditworthiness.

*Detail on Task 7 (contractor helps consumers with disputes of credit report information)*

The proposal should include 8 -10 templates, or exemplars, of the contractor’s preparation of consumer dispute letters (i.e., one template for each consumer coach). The use of a number of distinguishable templates reduces the possibility that a CRA might identify certain study participants by the uniform format in which disputes are expressed.

*Detail on Task 8 (rescoring of credit reports)*

First, for a consumer who alleges material error(s), a dispute shall be filed with each CRA that produced a report containing the alleged error(s). For each such report, the contractor shall rescore the original report (provisionally) as though all of the consumer’s provided information were accurate. Subsequently, upon conclusion of the dispute process, the contractor shall rescore each such credit report a second time after including the information that was either changed or deleted as a result of the dispute process.<sup>14</sup>

*Detail on Task 9 (new CRA credit reports and scores involving disputed information)*

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<sup>13</sup> To aid a contractor’s planning for the study, FTC staff believes there may be 3 or 4 waves of the FTC invitation letter. Successive waves are expected in intervals of 4 - 5 weeks, so that all mailings would be completed in 4- 5 months. Staff will coordinate these mailings with the study contractor according to the response rates for each prior wave. The initial wave is expected to be 3,000 FTC letters. In planning for the training of consumer coaches and their randomization over the set of participants, and recognizing that participants will also come in waves, the contractor’s proposal should allow that at least half of the coaches be ready to engage respondents after the first wave of FTC mailings, and that all coaches be ready upon the second wave of mailings. Upon randomizing the assignment of consumers to the coaches, one would expect similar outcomes for the coaches. Yet, by “the luck of the draw” a certain coach may have drawn (say) consumers with relatively lower credit scores than others, further yielding the outcome that this group alleges relatively more material errors than the other groups. The purpose of subsequent analysis is to assess whether such (or other) notable differences occurred and to provide explanations, where feasible, for statistically different results.

<sup>14</sup> If none of the consumer’s allegations lead to changes or deletions of credit report information, the second rescoring is obviated.

The new reports and scores from the CRAs are provided for the benefit of the consumer; the new scores must not be used as a “rescore” pertinent to some evaluation of the impact of any resolved errors (since these new scores will incorporate whatever new information has been adjoined to the consumer’s credit report during the course of the study.)

*Detail on Task 10 (assist FTC’s preparation for a non-response bias study)*

The contractor will initiate the development of a database, the “FTC Non-Response Database” (“FNON”) in EXCEL, shortly after the recruitment phase of the study has been completed. FNON will contain no personally identifying information; in particular, it will not contain the name, address, or social security number of any individual. The content and use of this database is described as follows:

(A) First, FTC staff will provide the study contractor with the ID numbers, credit scores, and ZIP codes of all individuals who were contacted by the mailing contractor (i.e., all individuals on the final SC list).<sup>15</sup> By consulting the work accomplished in Task 3, the contractor will then classify all of the individuals selected for contact into *participants* and *non-respondents*, and thereafter construct the FTC Non-Response Database using the information from non-respondents. FNON will initially have the following items: ID number, credit score, and ZIP code. The study contractor will share FNON with FTC staff upon request.

(B) After the completion of the recruitment phase of the study, the study contractor will receive the redacted credit histories for the set of individuals recorded in FNON, organized by ID number and redacted of all personal identifying information. The study contractor will expand FNON to include, for each ID number, the following information:<sup>16</sup>

- number of credit cards; number of active credit cards;
- number of late payments (ever);
- number of trade lines with 30 day late (ever), 60 day late (ever), 90+ day late (ever);
- number of trade lines currently delinquent;
- total credit card balances; total installment balances;
- number of trades opened in past year; number of inquiries in past year;
- number of accounts sent to collection; number of disputed trade lines;
- number of months covering the consumer’s file;
- reported bankruptcy (yes/no);
- other public record information (e.g., tax liens or any defaulted loans publicly recorded; yes/no).

Regarding non-credit information, for each of the designated ID numbers include (a) age, (b) gender (if available), (c) ZIP code, (d) number of prior addresses on file, (e)

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<sup>15</sup> See cited FRN of July 20, 2009 (page 35194 - 35195) for fuller context regarding the SC list and its relation to the larger SPC list.

<sup>16</sup> The expected number of row entries is estimated to cover 7,000 – 9000 IDs, depending on initial sample size of study participants (750 – 1,000; see Task 3). The contractor need not devote additional resources to *search* redacted credit histories for the required information. The information will be supplied to the contractor in the above manner for each ID number in FNON.

number of AKA identities on file, and (f) employment status (“yes” if employed or likely to be; “no” otherwise. Information compiled in FNON shall be based on the most recent information as of date of request and shall not contain personal identifying information.

### Part 3. Deliverables

In reference to the deliverables stated below, the contractor’s proposal to execute the contract shall include two bids: one for performing a contract that involves N = 750 study participants and a second bid for a study involving N = 1000 participants.

After all study participants have completed their work, the study contractor will use the information provided by the participants to expand FPAR as described and required below.<sup>17</sup> The additional information placed in the expanded FPAR will be, for each individual ID *and for each credit report*: the number and type of alleged material errors, an initial rescore of each credit report involving alleged material errors (provisionally, using the consumer’s information as though it were accurate), the number and type of alleged material errors that were changed or deleted via the dispute process, the contractor’s rescore after correction for the material errors in each credit report confirmed by the dispute process, additional demographic information about the participants obtained at the end of the study (e.g., income and educational level), and all information that is needed for the contractor to perform the required tabulations set forth below in this section; see, especially, the information related to parts (B) and (C). The contractor will deliver the updated FPAR to the FTC when the database is complete.

The contractor shall submit a written report on the study within 66 weeks from the date of a contract award. The report shall include a description of the study design that was implemented and procedures used to safeguard a consumers’ personal information. The report shall also:

(A) Wherever feasible, present written copies of protocols that were employed in the study. At a minimum, include the protocols used for the initial screening of respondents, the in-depth review of credit report information, formats used for recording the results of a consumer’s credit report review, and copies of the materials used to train and instruct the consumer coaches.

(B) Tabulate the results of the review of the participants’ credit reports regarding:

(1) types and frequency of *alleged* credit report errors, including both material and immaterial errors; further, regarding accounts that were alleged as not belonging to the person who is the subject of the report (i.e., “not mine”), identify instances (if any) in which the consumer alleged ID theft as the source of the error and tabulate such instances by frequency and type of transaction (e.g., whether the account involved a mortgage, automobile loan, a credit transaction, etc.);

(2) regarding *alleged material errors* in a credit report, tabulate their seriousness in terms of a *potential* change in credit score (e.g., no change, 1-10 point change, 11-20 point change, etc.) as determined by the initial rescoring of the consumer’s frozen file (see Task 8);

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<sup>17</sup> Again, the expanded FPAR will not contain any personally identifying information; specifically, it will not contain the name, address, or social security number of any participant.

(3) for items that were changed or deleted as a result of a dispute process,<sup>18</sup> tabulate the impact of such changes/deletions in terms of a change in credit score (e.g., no change, 1-10 point change, 11-20 point change, etc.) as determined by the second rescoring of the reports (see Task 8); further tabulate:

(a) types and frequency of disputed information that was *changed*;

(b) types and frequency of disputed information that was *deleted*, further indicating (where feasible) whether the deletion occurred by instruction of the data furnisher or by action of a CRA;

(c) again for information that was changed or deleted via the dispute process, identify those instances (if any) in which one CRA changed or deleted certain information in keeping with the consumer's allegation and another CRA, *on the same disputed item(s)*, maintained the information as originally reported; further tabulate such instances by type and frequency.

(4) for disputed information that was *maintained* as originally reported,

(a) the types and frequency of such disputed information (covering both material and immaterial disputes);

(b) for *alleged material errors* in (4), the potential impact of such disputed information on a consumer's credit score, as measured by the initial rescoring of the consumer's frozen file (again tabulated by 10 point movements in credit scores).

(5) considering *material differences* in information across the three credit reports of a consumer (if any), tabulate by type and frequency those instances in which, as a result of a dispute, an initial difference in material information was ultimately changed or deleted.

(C) Regarding Task 10, which addresses the contractor's assistance with the FTC's non-response bias study, the contractor shall deliver the results of the following:

(1) a certain comparison of participants to non-respondents; specifically, the contractor shall test for statistically significant differences between participants and non-respondents on their initial credit scores and on their credit histories as listed by the factors in Part 2, Task 10(B);

(2) within the class of participants, a certain comparison of "high contractor- effort" and "willing" participants;<sup>19</sup> specifically, the contractor shall test for statistically

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<sup>18</sup> The FCRA dispute process renders an outcome for each alleged error. Briefly, by instruction of the data furnisher, the following outcomes may occur: delete the item, change or modify the item (specifying the change), or maintain the item as originally reported. Also, a CRA may delete a disputed item due to expiration of a statutory time frame.

<sup>19</sup> In consultation with FTC staff, the defining differences between *high contractor-effort v. willing participants* will focus on "difficulty factors" (such as a need for follow up phone calls) experienced by the study contractor in helping participants complete all the steps of the study, and upon a comparison of their responsiveness to the FTC mailings (i.e., to which one of the two FTC mailings they responded and on the elapsed time before registering for the study).



significant differences between these two types of participants regarding their initial credit scores, the data regarding alleged credit report errors and their resolution (including results for rescoring credit report information from Task 8), and on their credit histories as listed by the factors in Part 2, Task 10(B).

#### Further Provision Regarding Deliverables.

The FTC reserves the right to obtain separately from the contractor *all data* collected during the course of this study, including all consumer credit scores and rescores that are generated in the performance of the required tasks. As noted above, the FTC has no intention of collecting any personal identifying information, sensitive or otherwise, on any participant or non-respondent. In lieu of personal identifiers, individuals will be identified by the abstract ID numbers assigned for the purpose of the study.

#### C.3 FTC and Contractor Documents

The COTR will notify the contractor when all work/services required have been completed. The COTR will further advise the contractor regarding the ultimate disposal of the data collected by the study.

#### C.4 Use of Data

In December 2012, the FTC expects to report its main findings on the FACTA 319 study to Congress. After the release of the FTC's Report to Congress, the contractor may request research use of data, after removing all personal identifying information. The contractor is permitted to say that it performed the collection of the data on behalf of the FTC. If the contractor desires such research use, application shall be made to the COTR. It is expected that the agency would respond favorably to such a request.

National Bank of Akron, Akron, Colorado.

Applicant also has applied to retain voting shares of Elite Properties of America II, Inc.; CB&T Mortgage, LLC; and CB&T Wealth Management, all of Colorado Springs, Colorado; CB&T Trust, LLC, Sioux Falls, South Dakota, and thereby engage in, extending credit and servicing of loans, pursuant to section 225.28(b)(1); financial and investment advisory activities, pursuant to sections 225.28(b)(6)(i) and (b)(6)(v); and trust activities, pursuant to section 225.28(b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, July 14, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E9-17111 Filed 7-17-09; 8:45 am]

BILLING CODE 6210-01-S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of

Governors not later than August 14, 2009.

**A. Federal Reserve Bank of Chicago** (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *C-B-G, Inc.*, West Liberty, Iowa; to acquire additional voting shares, totaling up to 50.01 percent of Washington Bancorp, and thereby indirectly acquire additional voting shares of Federation Bank, both of Washington, Iowa.

Board of Governors of the Federal Reserve System, July 15, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E9-17176 Filed 7-17-09; 8:45 am]

BILLING CODE 6210-01-S

## FEDERAL RESERVE SYSTEM

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 10:30 a.m., Thursday, July 23, 2009.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th Street entrance between Constitution Avenue and C Streets, N.W., Washington, D.C. 20551.

**STATUS:** Open.

We ask that you notify us in advance if you plan to attend the open meeting and provide your name, date of birth, and social security number (SSN) or passport number. You may provide this information by calling (202) 452-2474 or you may **register on-line**. You may pre-register until close of business July 22, 2009. You also will be asked to provide identifying information, including a photo ID, before being admitted to the Board meeting. The Public Affairs Office must approve the use of cameras; please call (202) 452-2955 for further information. If you need an accommodation for a disability, please contact Penelope Beattie on (202) 452-3982. For the hearing impaired only, please use the Telecommunication Device for the Deaf (TDD) on (202) 263-4869.

**Privacy Act Notice:** Providing the information requested is voluntary; however, failure to provide your name, date of birth, and social security number or passport number may result in denial of entry to the Federal Reserve Board. This information is solicited pursuant to Sections 10 and 11 of the Federal Reserve Act and will be used to facilitate a search of law enforcement databases to confirm that no threat is

posed to Board employees or property. It may be disclosed to other persons to evaluate a potential threat. The information also may be provided to law enforcement agencies, courts, and others, but only to the extent necessary to investigate or prosecute a violation of law.

### MATTERS TO BE CONSIDERED: Discussion Agenda:

1. Proposed Amendments to Regulation Z (Truth in Lending) Addressing Mortgage Loans and Home Equity Lines of Credit.

*Note:* 1. The staff memo to the Board will be made available to the public in paper and the background material will be made available on a computer disc in Word format. If you require a paper copy of the document, please call Penelope Beattie on (202) 452-3982.

2. This meeting will be recorded for the benefit of those unable to attend. Computer discs (CDs) will then be available for listening in the Board's Freedom of Information Office, and copies can be ordered for \$4 per disc by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

### FOR FURTHER INFORMATION CONTACT:

Michelle A. Smith, Director, or Dave Skidmore, Assistant to the Board, Office of Board Members; at 202-452-2955.

**SUPPLEMENTARY INFORMATION:** You may call (202) 452-3206 for a **recorded announcement** of this meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an **electronic announcement**. (The Web site also includes procedural and other information about the open meeting.)

Board of Governors of the Federal Reserve System, July 16, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E9-17302 Filed 7-16-09; 4:15 pm]

BILLING CODE 6210-01-S

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request

**AGENCY:** Federal Trade Commission ("FTC" or "Commission").

**ACTION:** Notice.

**SUMMARY:** The FTC plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). This study is a follow-up to the Commission's two previous

pilot studies.<sup>1</sup> Before gathering this information, the FTC is seeking public comment on its proposed study. The FTC will consider comments before it submits a request for Office of Management and Budget (OMB) review under the Paperwork Reduction Act (PRA).

**DATES:** Comments must be received on or before September 18, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "National Accuracy Study: Paperwork Comment (FTC file no. P044804)" to facilitate the organization of the comments. Please note that your comment—including your name and your state—will be placed on the public record of this proceeding, including on the publicly accessible FTC Website, at (<http://www.ftc.gov/os/publiccomments.shtm>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential. . . ." as provided in Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).<sup>2</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please

consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following web link: (<https://secure.commentworks.com/ftc-FACTA319study>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the web link (<https://secure.commentworks.com/ftc-FACTA319study>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Website at <http://www.ftc.gov> to read the Notice and the news release describing it.

A comment filed in paper form should include the "National Accuracy Study: Paperwork Comment (FTC file no. P044804)" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtm>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtm>).

**FOR FURTHER INFORMATION CONTACT:** Peter Vander Nat, Economist, (202) 326-3518, Federal Trade Commission, Bureau of Economics.

**SUPPLEMENTARY INFORMATION:** Section 319 of the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act")

or the "Act"), Pub. L. 108-159 (2003) requires the FTC to study the accuracy and completeness of information in consumers' credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of eleven years. The first report was submitted to Congress in December 2004.<sup>3</sup> The second report was submitted to Congress in December 2006 ("December 2006 Report"), describing the results of a pilot study. The third report was submitted in December 2008 ("December 2008 Report"), describing the results of a second pilot study.

In July 2005, OMB approved the FTC's request to conduct a pilot study to evaluate the feasibility of a methodology that involves direct review by consumers of the information in their credit reports (OMB Control Number 3084-0133),<sup>4</sup> and the FTC conducted that pilot study in 2005-2006. As explained in the December 2006 report, FTC staff concluded that it was necessary to conduct a second pilot study to evaluate additional design elements prior to carrying out a nationwide survey. Upon receiving further OMB approval (reinstatement of Control No. 3084-0133), the FTC conducted the second pilot study in 2007-2008. The FTC's pilot studies used small samples and did not rely on the selection of a nationally representative sample of credit reports; accordingly, no statistical projections were made. The FTC now plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). This study is a follow-up to the Commission's two previous pilot studies.

#### Proposed Information Collection Activities

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. § 3502(3), 5 CFR

<sup>1</sup> Reports to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2006 and 2008. The reports may be accessed at the FTC's Web site. December 2006 Report: ([http://www.ftc.gov/reports/FACTACT/FACT\\_Act\\_Report\\_2006.pdf](http://www.ftc.gov/reports/FACTACT/FACT_Act_Report_2006.pdf)); December 2008 Report: (<http://www.ftc.gov/opa/2008/12/factareport.shtm>).

<sup>2</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

<sup>3</sup> Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2004. The December 2004 Report is available at (<http://www.ftc.gov/reports/facta/041209factarpt.pdf>).

<sup>4</sup> See 70 FR 24583 (May 10, 2005) for discussion of the initial pilot study and related public comments.

§ 1320.3(c). Because the number of entities affected by the Commission's requests will exceed ten, the Commission plans to seek OMB clearance under the PRA. As required by § 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB grant the clearance for the proposed information collection.

The FTC invites comments on: (1) whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses). More generally, the FTC invites comment on the various design elements for a national study set forth below. All comments should be filed as prescribed in the ADDRESSES section above, and must be received on or before September 18, 2009.

### 1. Description of the Collection of Information and Proposed Use

#### A. Initial Pilot Study (2005-2006)

The goal of the initial pilot study was to assess the feasibility of directly engaging consumers in an in-depth review of their credit reports for the purpose of identifying alleged material errors and channeling such errors through the Fair Credit Report Act ("FCRA") dispute resolution process. The FTC's contractor for the initial pilot study—a research team comprised of members from the Center for Business and Industrial Studies (University of Missouri-St Louis), Georgetown University Credit Research Center, and the Fair Isaac Corporation—engaged 30 randomly selected participants in an in-depth review of their credit reports. Study participants obtained their credit reports and credit scores<sup>5</sup> from each of

<sup>5</sup> A credit score is a numerical summary of the information in a credit report and is designed to be predictive of the risk of default. Credit scores are created by proprietary formulas that render the following result: the higher the credit score, the lower the risk of default. The contractor in the first and second pilot studies employed (and the proposed national study expects to employ) a score

the three nationwide consumer reporting agencies (Equifax, Experian, TransUnion—hereinafter, the "CRAs"). The contractor reviewed these credit reports with the participants and after an evaluation of alleged errors for materiality by the research team, consumers were asked to channel disputed information through the FCRA dispute resolution process.<sup>6</sup>

The first pilot study demonstrated the general feasibility of the consumer interview methodology, but also revealed several challenges for a national study.<sup>7</sup> Challenges include identifying methods for achieving a more representative sampling frame, increasing the response rates, and easing the burden of completing the study. Compared to the national average for credit scores, consumers with relatively low scores were under-represented. Also, the majority of participants who alleged errors on their credit reports and indicated that they would file a dispute did not follow through with their stated intention to file. In consideration of these and other matters, the FTC conducted a follow-up pilot study.

#### B. The Second Pilot Study (2007-2008)

The second pilot study combined successful elements from the first pilot with new procedures designed to overcome shortcomings of the first pilot.

Through a variety of recruitment channels, 4,232 people were invited to participate. Multiple recruitment methods were employed and these were useful in identifying differences in response rates and credit scores of the respondents across various methods of recruitment. Of the 4,232 individuals

that is commonly used in credit reporting, namely a FICO score.

<sup>6</sup> The FCRA dispute resolution process involves the review of disputed items by data furnishers and CRAs. The formal dispute process renders a specific outcome for each alleged error. By direct instruction of the data furnisher, the following outcomes may occur: delete the item, change or modify the item (specifying the change), or maintain the item as originally reported. A CRA may also delete a disputed item due to expiration of the statutory time frame (the FCRA limits the process to 30 days, but the time may be extended to 45 days if a consumer submits relevant information during the 30-day period). These possible actions are tracked by a form called "Online Solution for Complete and Accurate Reporting" (e-OSCAR) that is used by CRAs for resolving FCRA disputes. A consumer may also dispute information directly with a data furnisher, as provided for by FCRA 623(a)(8). 15 U.S.C. 1681s-2(a)(8). (See also, Federal Trade Commission and Board of Governors of the Federal Reserve System, *Report to Congress on the Fair Credit Reporting Act Dispute Process*, August 2006. The report is available at (<http://www.ftc.gov/os/comments/fcradispute/P044808fcradisputeprocessreporttocongress.pdf>).

<sup>7</sup> The FTC's December 2006 Report to Congress contains a more detailed review of the study and its results.

contacted, 128 (3%) became participants. The contractor<sup>8</sup> helped participants obtain their 3 credit reports and conducted an in-depth review of the reports with each participant. The contractor also helped the participants to identify alleged inaccuracies and gave advice on the difference between a small inaccuracy and a material error that is likely to affect a credit score. Specific criteria for materiality were developed in consultation with Fair Isaac's analyst on the research team.<sup>9</sup> If the consumer alleged a material error, the individual was encouraged to file a formal FCRA dispute so as to obtain a review of the challenged items by data furnishers and CRAs. The contractor prepared a dispute letter for any consumer who wanted to file and allege an error, material or not (as the FCRA permits a consumer to dispute any credit report information that the person believes to be inaccurate).

Regarding the results of the study, 88 of the 128 participants (69%) found no errors in their credit reports. Of the 40 participants who alleged one or more errors that they wanted to dispute, 15 (or 12% of the 128) alleged a material error. For 7 of these latter cases, the FCRA dispute process rendered credit report changes that were made fully in keeping with all of the consumer's allegations.<sup>10</sup>

As noted above, the second pilot study (like the first) used a small sample and no statistical projections were made. Accordingly, no extensive statistical summaries were needed, nor were any given, in the FTC's report on the study. The primary purpose of the pilot studies was to refine the expert-

<sup>8</sup> Due to the similarity in design (i.e., second pilot was constructed as a follow-up to first) the FTC employed the same contractor.

<sup>9</sup> December 2008 Report (at 3). The contractor used the following criteria for materiality: the consumer had a credit score less than 760 (a cutoff widely used to identify consumers with lowest credit risk and for extending credit on most favorable terms) AND the consumer alleged an error regarding any of the following matters: (i) negative items (such as late payments); (ii) public derogatories (such as bankruptcy); (iii) accounts sent to collection; (iv) number of inquiries for new credit; (v) outstanding balances not attributable to normal monthly reporting variation; (vi) accounts on the report not belonging to the person who is the subject of the report; or (vii) duplicate entries of the same information (e.g., late payments or outstanding obligations) that were double-counted in the reported summaries of such items. To enhance the efficiency of the study process, the stated criteria modify somewhat the procedure used in the first pilot study (contractor's report on second pilot study at 27). In the proposed national study, we do not intend to use any cutoff score for materiality, but plan to retain the stated categories as indicating a dispute material to creditworthiness.

<sup>10</sup> Other cases (i.e., some of the consumer's allegations were confirmed while other allegations were denied) are summarized in the December 2008 Report (at 2 & 8).

assisted survey approach for studying credit report information, in preparation for a national study.

The second pilot study confirmed the importance of having the contractor prepare dispute letters for consumers. This was not done in the first pilot study. In the first pilot study, only 1 of the 3 participants who alleged material errors on their credit reports filed a dispute. In the follow-up pilot study, all 15 of the participants who alleged material errors on their credit reports received dispute letters from the contractor, and the outcomes of these disputes are known for 12 of them. This is a significant improvement over the first pilot study.

As noted above, multiple recruitment methods were used to identify differences in response rates and in credit scores of respondents across various methods of recruitment. The second pilot study confirmed the difficulties of obtaining adequate numbers of participants with below-average credit scores. Purely random sampling of potential participants yielded too few actual participants with low credit scores.<sup>11</sup> A weighted random sampling approach, whereby more invitations were extended to groups of consumers who were likely to have lower credit scores, produced a sample closer to national norms.<sup>12</sup>

The second pilot study indicated that it would be feasible to base a measure of the accuracy of credit report information on confirmed material errors via the FCRA dispute process. Whenever it appeared that a consumer's credit score could be affected by "correcting" an alleged material error, the contractor marked the credit reports (the *frozen files*)<sup>13</sup> with explanations of the discrepancies and sent copies of the marked reports to Fair Isaac for rescoring. If, via the FCRA dispute process, changes were subsequently made by CRAs and lenders in keeping with the consumer's allegations, these changed items were then designated as *confirmed material errors*. We then rescore the frozen file to quantify the impact of the confirmed error(s) on the consumer's credit score. The difference between the rescore of the frozen file and the original score is a meaningful measure of the impact of inaccurate credit report information. We intend to

use this type of methodology in a national study.<sup>14</sup>

As a final point of this summary of the pilot studies, the relatively low response rate (*i.e.*, approximately 3% of the individuals contacted became participants) raises concern for the design of a national study regarding a potential response bias. This matter is addressed below.

### C. Proposed National Study

The proposed national study seeks to use a large representative sample of credit reports so that we may draw inferences, up to a certain level of statistical confidence, about the accuracy of credit reports in general. The need to employ a representative sample makes the initial steps of the proposed study different from the methodology of the second pilot study; in other respects, the methodologies of the two studies are largely the same. Our goal is to obtain approximately 1,000 participants who as a group display a diversity on credit scores and on major demographic characteristics in line with national norms.

The relevant population for the study is comprised of adult members of households who have credit histories with Equifax, Experian, and/or TransUnion. To study these credit histories we propose, as a first step, to obtain a very large random sample (with an order of magnitude of 200,000 names) from one of the consumer reporting agencies in order to determine a set of individuals *selected for possible contact* (the "SPC list").<sup>15</sup> From this SPC list, FTC staff will draw a further and considerably smaller random sample (*e.g.*, 10% sample) of individuals *selected for contact* (the "SC list").

<sup>14</sup> Certain limitations regarding this methodology are discussed in the December 2008 Report (at 3 & 4). Yet, use of the FCRA dispute process appears to be the only feasible way of performing a nationwide survey, in view of the enormous difficulty and cost of attempting to ascertain the ultimate accuracy regarding alleged errors.

<sup>15</sup> The information in this sample, which would include names, addresses, and credit scores, is to be obtained under applicable law and protected from disclosure by, *e.g.*, Exemption 6 of the Freedom of Information Act, 5 U.S.C. 552. That information, as well as any credit reports that individual participants give permission to be analyzed for the study, will be maintained and used by the FTC and its contractors subject to appropriate information security procedures and safeguards (*e.g.*, maintaining credit-related data separately from personal identifying information, requiring the FTC's contractors to execute confidentiality agreements, and limiting access to those FTC and contractor staff who have a need to work with the data). As noted above, the study methodology is also designed to prevent disclosure of any individual's participation in the study to any credit reporting agency.

There are several reasons for this two-step process. First, the vast majority of the names on the SPC list will not be sent invitations to participate and thus helps ensure that no CRA will know who is participating in the study. Further, using the SC list, we plan to send proportionally more invitation letters to individuals with lower credit scores. Use of this weighted random sampling approach is designed to obtain an ultimate set of participants having credit scores (specifically, the lower scores) in line with national norms, as suggested by the results of the second pilot study.<sup>16</sup>

After some substantial set of individuals have agreed to join the study (300 - 400 people), we will have an *initial sample*. This sample will be compared with the larger SPC list on credit scores and geographic diversity. Statistically significant differences between this initial sample and the larger SPC list would reflect the impact of non-participation. From this information, we can selectively draw individuals from the SC list in an effort to compensate for these differences as necessary.

As a further check on a potential bias in the decision to participate, we plan to obtain anonymized (redacted) credit reports (and related credit scores)<sup>17</sup> for *the entire class of non-respondents, i.e.*, all the people from the SC list who choose not to participate. Using the redacted reports and related scores we can determine, for example, whether non-respondents had significantly different credit scores or significantly different credit histories from those who agreed to participate.

Upon completion of the study, we will have a database with detailed demographic information about the participants, the type and quantity of alleged material errors on their credit reports, the type and quantity of confirmed material errors via the FCRA dispute process, and the impact of any such confirmed errors on the participants' credit scores.<sup>18</sup> Further, by

<sup>16</sup> December 2008 Report (at 9 & 10).

<sup>17</sup> These credit reports and scores will be generated and maintained without name, address or personal identifiers other than ID numbers assigned by the study.

<sup>18</sup> Using the methodology of the pilot studies, we expect to obtain a variety of alleged errors: incorrect report of late payment; multiple reports of an account with late payment; paid account reported as delinquent; closed account reported as delinquent; incorrect financial account reported ("not mine"); incorrect collection balance; incorrect collection account reported; multiple reports of an account in bankruptcy; chapter 7 accounts discharged but reported as delinquent, as well as further types of alleged errors. For these same categories we can also tabulate confirmed material errors via the FCRA dispute process. As explained

<sup>11</sup>Table III of the December 2008 Report (at 9).

<sup>12</sup>Table 9 of the contractor's report (appendix to the December 2008 Report).

<sup>13</sup> The files are called "frozen" because no new credit information was added to the consumer's original credit reports obtained in the study; any rescoring would thus apply only to potential changes or actual changes that were directly related to the contractor's review.

analyzing the redacted credit reports and related scores of the non-respondents, we obtain a final check on the degree to which the enhanced procedures were effective in achieving a nationally representative sample of credit reports.

## 2. Estimated Hours Burden

Consumer participation in the proposed national study would involve an initial preparation for the in-depth interview and time spent by participants to understand, review, and if deemed necessary, dispute information in their credit reports. Invitation letters will be sent in progressive waves in order to obtain approximately 1,000 participants. The individuals who receive these letters are drawn from the SC list discussed above and will be asked to go directly to a designated Web site for enrollment if they wish to participate; registration is expected to take at most 15 minutes per participant.<sup>19</sup> The registration process thus comes to approximately 250 hours (reckoned at 1/4 hour for each of 1,000 consumers).

For the purpose of calculating burden under the PRA regarding the review process of the credit reports, FTC staff submits the following estimates that are based on the contractor's experience with the second pilot study. Some participants prepare thoroughly in advance of the in-depth interview of their credit reports. In such situations, even complicated reports may generally be finished under 30 minutes. Other consumers may not find time for significant preparation in advance of the in-depth review, and in such cases the interview could take up to an hour. The participants in the second pilot study reported taking an average of 69 minutes (median 53 minutes) to prepare for the interview, with 90% taking between 10 and 180 minutes. The interviews themselves took an average of 19 minutes (median 15 minutes) with 90% taking between 5 and 45 minutes. Overall, the average combined time for preparation and the interview was about

above, the rescoring of the frozen files will then provide the impact of any confirmed errors on the participants' credit scores.

<sup>19</sup> At the registration Web site, a person may take the time to read several disclosures, including a privacy disclosure and an outline of the various steps of the study that every participant agrees to undertake. The consumer is then asked to enter basic contact information (e.g., name, address, telephone number, best time to be contacted further about the study) and to enter an electronic signature certifying the consumer's consent to participate in the study. For those who may not have Internet access to register, the contractor would also have a procedure to mail the appropriate disclosures and study steps to the respondent and then receive back enrollment information and the consumer's signed consent in paper form.

90 minutes (1.5 hours). For a national study involving 1,000 consumers, FTC staff thus estimates the burden hours for the review process to be approximately 1,500 hours (1,000 consumers x 1.5 hours). Further adding on the time spent for the registration process (0.25 hours per participant), the total burden hours come to approximately 1,750 hours.

## 3. Estimated Cost Burden

The cost per consumer for their participation should be negligible. Participation is voluntary and it will not require any start-up or capital expenditure. There is no labor time expenditure beyond the 1.75 hours per consumer estimated above. Participants may receive an honorarium to compensate them for their time. The amount will be determined by FTC staff in consultation with the contractor according to an analysis of customary procedures and a consideration of response rates within key categories, such as, response rates for consumers with impaired credit. As with the pilot studies, participants will not pay for their credit reports or credit scores.

**Willard Tom,**

*General Counsel*

[FR Doc. E9-17147 Filed 7-17-09; 8:45 am]

BILLING CODE: 6750 -01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Submission for OMB Review; Comment Request; CareerTrac

*Summary:* Under the provisions of section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Fogarty International Center (FIC) and National Institute of Environmental Health Sciences (NIEHS), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 12, 2009, page 22172, and allowed 60-days for public comment. No comments were received from this notification regarding the cost and hour burden estimates. The purpose of this announcement is to allow an additional 30 days for public comment.

The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it

displays a currently valid OMB control number.

*Proposed Collection: Title:* CareerTrac. *Type of Information Collection Request:* Revision (OMB No.: 0925-0568 Expiration: Aug. 31, 2009). *Need and Use of Information Collection:* This data collection system is being developed to track, evaluate and report short and long-term outputs, outcomes and impacts of international trainees involved in health research training programs—specifically tracking this for at least ten years following training by having Principal Investigators enter data after trainees have completed the program. The data collection system provides a streamlined, Web-based application permitting principal investigators to record career achievement progress by trainee on a voluntary basis. FIC and NIEHS management will use this data to monitor, evaluate and adjust grants to ensure desired outcomes are achieved, comply with OMB part requirements, respond to congressional inquiries, and as a guide to inform future strategic and management decisions regarding the grant program.

*Frequency of Response:* Annual and periodic *Affected Public:* none *Type of Respondents:* Principal Investigators and/or their administrators funded by FIC and NIEHS. The annual reporting burden is as follows: *Estimated Number of Respondents:* 275; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 7.5 and *Estimated Total Annual Burden Hours Requested:* 2063. The annualized cost to respondents is estimated at \$82,500. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

*Request for Comments:* Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**PLACE:** 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

**STATUS:** A portion of the meeting will be in Open Session and the remainder of the meeting will be in Closed Session.

**MATTERS TO BE CONSIDERED:**

**Open Session**

1. Discussion of Court of Appeals Mandate in Landstar.
2. Briefing on Conclusion of FY 2009 Budget.

**Closed Session**

1. World Chance Logistics (Hong Kong).
2. Lindblad Expeditions, Inc.—Evidence of Financial Responsibility.
3. Staff Briefing Regarding Global Economic Downturn and Potential Impact on Stakeholders.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Karen V. Gregory, Secretary, (202) 523-5725.

**Karen V. Gregory,**  
Secretary.

[FR Doc. E9-25065 Filed 10-14-09; 4:15 pm]

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**FEDERAL TRADE COMMISSION**

**Agency Information Collection Activities; Submission for OMB Review and Reinstatement of Existing Collection; Comment Request**

**AGENCY:** Federal Trade Commission (“FTC” or “Commission”).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FTC plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). This study is a follow-up to the Commission’s two previous pilot studies that were undertaken to evaluate a potential design for a national study.<sup>1</sup> This is the second of two notices required under the Paperwork Reduction Act (“PRA”), and the Commission seeks additional public comments on its proposed national study before requesting Office of Management and Budget (“OMB”) review of, and clearance for, the

collection of information discussed herein.

**DATES:** Comments must be received on or before November 16, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form, by following the instructions in the Request for Comments to 30-Day Notice part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following Web link: (<https://secure.commentworks.com/ftc/FACTA319studypra2>) (and following the instructions on the web-based form). Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY SECTION** below.

**FOR FURTHER INFORMATION CONTACT:**

Peter Vander Nat, Economist, (202) 326-3518, Federal Trade Commission, Bureau of Economics.

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

On July 20, 2009, the FTC sought comment on the information collection requirements associated with the proposed national study.<sup>2</sup> As discussed below under (II)(D) - Summary of and Response to Public Comments to 60-Day Notice, three comments were received ([see \(http://www.ftc.gov/os/comments/facta319study/index.shtml\)](http://www.ftc.gov/os/comments/facta319study/index.shtml) for text of the comments). Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, the FTC is providing this second opportunity for public comment while seeking OMB approval to reinstate the clearance for the proposed national study, which is a follow-up to the FTC’s two prior pilot studies (OMB Control No. 3084-0133) that were undertaken to evaluate a potential design for a national study. All comments should be filed as prescribed in the **ADDRESSES** section above and in the Request for Comments to 30-Day Notice (found below at II.E.), and must be received on or before November 16, 2009.

<sup>2</sup> 74 FR 35191.

**I. Background**

Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act” or the “Act”), Pub. L. 108-159 (2003) requires the FTC to study the accuracy and completeness of information in consumers’ credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of eleven years. The first report was submitted to Congress in December 2004.<sup>3</sup> The second report was submitted to Congress in December 2006 (“December 2006 Report”), describing the results of a pilot study. The third report was submitted in December 2008 (“December 2008 Report”), describing the results of a second pilot study.

In July 2005, OMB approved the FTC’s request to conduct a pilot study to evaluate the feasibility of a methodology that involves direct review by consumers of the information in their credit reports (OMB Control Number 3084-0133),<sup>4</sup> and the FTC conducted that pilot study in 2005-2006. As explained in the December 2006 report, FTC staff concluded that it was necessary to conduct a second pilot study to evaluate additional design elements prior to carrying out a nationwide survey. Upon receiving further OMB approval (reinstatement of Control No. 3084-0133), the FTC conducted the second pilot study in 2007-2008. The FTC’s pilot studies used small samples and did not rely on the selection of a nationally representative sample of credit reports; accordingly, no statistical projections were made. The FTC now plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). This study is a follow-up to the Commission’s two previous pilot studies.

**A. Initial Pilot Study (2005-2006)**

The goal of the initial pilot study was to assess the feasibility of directly engaging consumers in an in-depth review of their credit reports for the purpose of identifying alleged material errors and channeling such errors through the Fair Credit Report Act

<sup>3</sup> Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2004. The December 2004 Report is available at (<http://www.ftc.gov/reports/index.htm#2004>).

<sup>4</sup> See 70 FR 24583 (May 10, 2005) for discussion of the initial pilot study and related public comments.

<sup>1</sup> Reports to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2006 and 2008. The reports may be accessed at the FTC’s Web site. December 2006 Report: ([http://www.ftc.gov/reports/FACTACT/FACT\\_Act\\_Report\\_2006.pdf](http://www.ftc.gov/reports/FACTACT/FACT_Act_Report_2006.pdf)); December 2008 Report: (<http://www.ftc.gov/opa/2008/12/factreport.shtml>).

(“FCRA”) dispute resolution process. The FTC’s contractor for the initial pilot study – a research team comprised of members from the Center for Business and Industrial Studies (University of Missouri-St Louis), Georgetown University Credit Research Center, and the Fair Isaac Corporation – engaged 30 randomly selected participants in an in-depth review of their credit reports. Study participants obtained their credit reports and credit scores<sup>5</sup> from each of the three nationwide consumer reporting agencies (Equifax, Experian, TransUnion – hereinafter, the “CRAs”). The contractor reviewed these credit reports with the participants and after an evaluation of alleged errors for materiality by the research team, consumers were asked to channel disputed information through the FCRA dispute resolution process.<sup>6</sup>

The first pilot study demonstrated the general feasibility of the consumer interview methodology, but also revealed several challenges for a national study.<sup>7</sup> Challenges include identifying methods for achieving a more representative sampling frame, increasing the response rates, and easing the burden of completing the study. Compared to the national average for credit scores, consumers with relatively low scores were under-represented. Also, the majority of participants who alleged errors on their credit reports and indicated that they would file a dispute did not follow through with their stated

intention to file. In consideration of these and other matters, the FTC conducted a follow-up pilot study.

#### B. The Second Pilot Study (2007-2008)

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Regarding the results of the study, 88 of the 128 participants (69%) found no errors in their credit reports. Of the 40 participants who alleged one or more errors that they wanted to dispute, 15

(or 12% of the 128) alleged a material error. For 7 of these latter cases, the FCRA dispute process rendered credit report changes that were made fully in keeping with all of the consumer’s allegations.<sup>10</sup>

As noted above, the second pilot study (like the first) used a small sample and no statistical projections were made. Accordingly, no extensive statistical summaries were needed, nor were any given, in the FTC’s report on the study. The primary purpose of the pilot studies was to refine the expert-assisted survey approach for studying credit report information, in preparation for a national study.

The second pilot study confirmed the importance of having the contractor prepare dispute letters for consumers. This was not done in the first pilot study. In the first pilot study, only 1 of the 3 participants who alleged material errors on their credit reports filed a dispute. In the follow-up pilot study, all 15 of the participants who alleged material errors on their credit reports received dispute letters from the contractor, and the outcomes of these disputes are known for 12 of them. This is a significant improvement over the first pilot study.

As noted above, multiple recruitment methods were used to identify differences in response rates and in credit scores of respondents across various methods of recruitment. The second pilot study confirmed the difficulties of obtaining adequate numbers of participants with below-average credit scores. Purely random sampling of potential participants yielded too few actual participants with low credit scores.<sup>11</sup> A weighted random sampling approach, whereby more invitations were extended to groups of consumers who were likely to have lower credit scores, produced a sample closer to national norms.<sup>12</sup>

The second pilot study indicated that it would be feasible to base a measure of the accuracy of credit report information on confirmed material errors via the FCRA dispute process. Whenever it appeared that a consumer’s credit score could be affected by “correcting” an alleged material error, the contractor marked the credit reports (the *frozen files*)<sup>13</sup> with explanations of

<sup>5</sup> A credit score is a numerical summary of the information in a credit report and is designed to be predictive of the risk of default. Credit scores are created by proprietary formulas that render the following result: the higher the credit score, the lower the risk of default. The contractor in the first and second pilot studies employed (and the proposed national study expects to employ) a score that is commonly used in credit reporting, namely a FICO score.

<sup>6</sup> The FCRA dispute resolution process involves the review of disputed items by data furnishers and CRAs. The formal dispute process renders a specific outcome for each alleged error. By direct instruction of the data furnisher, the following outcomes may occur: delete the item, change or modify the item (specifying the change), or maintain the item as originally reported. A CRA may also delete a disputed item due to expiration of the statutory time frame (the FCRA limits the process to 30 days, but the time may be extended to 45 days if a consumer submits relevant information during the 30-day period). These possible actions are tracked by a form called “Online Solution for Complete and Accurate Reporting” (e-OSCAR) that is used by CRAs for resolving FCRA disputes. A consumer may also dispute information directly with a data furnisher, as provided for by FCRA 623(a)(8). 15 U.S.C.1681s-2(a)(8). (See also, Federal Trade Commission and Board of Governors of the Federal Reserve System, *Report to Congress on the Fair Credit Reporting Act Dispute Process*, August 2006. The report is available at (<http://www.ftc.gov/reports/index.htm#2006>).

<sup>7</sup> The FTC’s December 2006 Report to Congress contains a more detailed review of the study and its results.

<sup>8</sup> Due to the similarity in design (*i.e.*, second pilot was constructed as a follow-up to first) the FTC employed the same contractor.

<sup>9</sup> December 2008 Report (at 3). The contractor used the following criteria for materiality: the consumer had a credit score less than 760 (a cutoff widely used to identify consumers with lowest credit risk and for extending credit on most favorable terms) AND the consumer alleged an error regarding any of the following matters: (i) negative items (such as late payments); (ii) public derogatories (such as bankruptcy); (iii) accounts sent to collection; (iv) number of inquiries for new credit; (v) outstanding balances not attributable to normal monthly reporting variation; (vi) accounts on the report not belonging to the person who is the subject of the report; or (vii) duplicate entries of the same information (*e.g.*, late payments or outstanding obligations) that were double-counted in the reported summaries of such items. To enhance the efficiency of the study process, the stated criteria modify somewhat the procedure used in the first pilot study (contractor’s report on second pilot study at 27). In the proposed national study, we do not intend to use any cutoff score for materiality, but plan to retain the stated categories as indicating a dispute material to creditworthiness.

<sup>10</sup> Other cases (*i.e.*, some of the consumer’s allegations were confirmed while other allegations were denied) are summarized in the December 2008 Report (at 2 & 8).

<sup>11</sup> Table III of the December 2008 Report (at 9).

<sup>12</sup> Table 9 of the contractor’s report (appendix to the December 2008 Report).

<sup>13</sup> The files are called “frozen” because no new credit information was added to the consumer’s original credit reports obtained in the study; any



the discrepancies and sent copies of the marked reports to Fair Isaac for rescoring. If, via the FCRA dispute process, changes were subsequently made by CRAs and lenders in keeping with the consumer's allegations, these changed items were then designated as *confirmed material errors*. The frozen file would then be re-scored to quantify the impact of the confirmed error(s) on the consumer's credit score. The difference between the rescore of the frozen file and the original score would be a meaningful measure of the impact of inaccurate credit report information. We intend to use this type of methodology in a national study.<sup>14</sup>

As a final point of this summary of the pilot studies, the relatively low response rate (*i.e.*, approximately 3% of the individuals contacted became participants) raises concern for the design of a national study regarding a potential response bias. This matter is addressed below.

## II. Proposed National Study

### A. Description of the Collection of Information and the Proposed Use

The proposed national study seeks to use a large representative sample of credit reports so that we may draw inferences, up to a certain level of statistical confidence, about the accuracy of credit reports in general. The need to employ a representative sample makes the initial steps of the proposed study different from the methodology of the second pilot study; in other respects, the methodologies of the two studies are largely the same. Our goal is to obtain approximately 1,000 participants who as a group display a diversity on credit scores and on major demographic characteristics in line with national norms.

The relevant population for the study is comprised of adult members of households who have credit histories with Equifax, Experian, and/or TransUnion. To study these credit histories we propose, as a first step, to obtain a very large random sample (with an order of magnitude of 200,000 names) from one of the consumer reporting agencies in order to determine a set of individuals *selected for possible*

rescoring would thus apply only to potential changes or actual changes that were directly related to the contractor's review.

<sup>14</sup> Certain limitations regarding this methodology are discussed in the December 2008 Report (at 3 & 4). Yet, use of the FCRA dispute process appears to be the only feasible way of performing a nationwide survey, in view of the enormous difficulty and cost of attempting to ascertain the ultimate accuracy regarding alleged errors.

*contact* (the "SPC list").<sup>15</sup> From this SPC list, FTC staff will draw a further and considerably smaller random sample (*e.g.*, 10% sample) of individuals *selected for contact* (the "SC list").

There are several reasons for this two-step process. First, the vast majority of the names on the SPC list will not be sent invitations to participate and thus helps ensure that no CRA will know who is participating in the study. Further, using the SC list, we plan to send proportionally more invitation letters to individuals with lower credit scores. Use of this weighted random sampling approach is designed to obtain an ultimate set of participants having credit scores (specifically, the lower scores) in line with national norms, as suggested by the results of the second pilot study.<sup>16</sup>

After some substantial set of individuals have agreed to join the study (300 - 400 people), we will have an *initial sample*. This sample will be compared with the larger SPC list on credit scores and geographic diversity. Statistically significant differences between this initial sample and the larger SPC list would reflect the impact of non-participation. From this information, we can selectively draw individuals from the SC list in an effort to compensate for these differences as necessary.

As a further check on a potential bias in the decision to participate, we plan to obtain anonymized (redacted) credit reports (and related credit scores)<sup>17</sup> for the *entire class of non-respondents, i.e.*, all the people from the SC list who choose not to participate. Using the redacted reports and related scores we can determine, for example, whether non-respondents had significantly different credit scores or significantly

<sup>15</sup> The information in this sample, which would include names, addresses, and credit scores, is to be obtained under applicable law and protected from disclosure by, *e.g.*, Exemption 6 of the Freedom of Information Act, 5 U.S.C. 552. That information, as well as any credit reports that individual participants give permission to be analyzed for the study, will be maintained and used by the FTC and its contractors subject to appropriate information security procedures and safeguards (*e.g.*, maintaining credit-related data separately from personal identifying information, requiring the FTC's contractors to execute confidentiality agreements, and limiting access to those FTC and contractor staff who have a need to work with the data). As noted above, the study methodology is also designed to prevent disclosure of any individual's participation in the study to any credit reporting agency.

<sup>16</sup> December 2008 Report (at 9 & 10).

<sup>17</sup> These credit reports and scores will be generated and maintained without name, address or personal identifiers other than ID numbers assigned by the study.

different credit histories from those who agreed to participate.

Upon completion of the study, we will have a database with detailed demographic information about the participants, the type and quantity of alleged material errors on their credit reports, the type and quantity of confirmed material errors via the FCRA dispute process, and the impact of any such confirmed errors on the participants' credit scores.<sup>18</sup> Further, by analyzing the redacted credit reports and related scores of the non-respondents, we obtain a final check on the degree to which the enhanced procedures were effective in achieving a nationally representative sample of credit reports.

### B. Estimated Hours Burden

Consumer participation in the proposed national study would involve an initial preparation for the in-depth interview and time spent by participants to understand, review, and if deemed necessary, dispute information in their credit reports. Invitation letters will be sent in progressive waves in order to obtain approximately 1,000 participants. The individuals who receive these letters are drawn from the SC list discussed above and will be asked to go directly to a designated Web site for enrollment if they wish to participate; registration is expected to take at most 15 minutes per participant.<sup>19</sup> The registration process thus comes to approximately 250 hours (reckoned at 1/4 hour for each of 1,000 consumers).

For the purpose of calculating burden under the PRA regarding the review process of the credit reports, FTC staff

<sup>18</sup> Using the methodology of the pilot studies, we expect to obtain a variety of alleged errors: incorrect report of late payment; multiple reports of an account with late payment; paid account reported as delinquent; closed account reported as delinquent; incorrect financial account reported ("not mine"); incorrect collection balance; incorrect collection account reported; multiple reports of an account in bankruptcy; chapter 7 accounts discharged but reported as delinquent, as well as further types of alleged errors. For these same categories we can also tabulate confirmed material errors via the FCRA dispute process. As explained above, the rescoring of the frozen files will then provide the impact of any confirmed errors on the participants' credit scores.

<sup>19</sup> At the registration Web site, a person may take the time to read several disclosures, including a privacy disclosure and an outline of the various steps of the study that every participant agrees to undertake. The consumer is then asked to enter basic contact information (*e.g.*, name, address, telephone number, best time to be contacted further about the study) and to enter an electronic signature certifying the consumer's consent to participate in the study. For those who may not have Internet access to register, the contractor would also have a procedure to mail the appropriate disclosures and study steps to the respondent and then receive back enrollment information and the consumer's signed consent in paper form.

submits the following estimates that are based on the contractor's experience with the second pilot study. Some participants prepare thoroughly in advance of the in-depth interview of their credit reports. In such situations, even complicated reports may generally be finished under 30 minutes. Other consumers may not find time for significant preparation in advance of the in-depth review, and in such cases the interview could take up to an hour. The participants in the second pilot study reported taking an average of 69 minutes (median 53 minutes) to prepare for the interview, with 90% taking between 10 and 180 minutes. The interviews themselves took an average of 19 minutes (median 15 minutes) with 90% taking between 5 and 45 minutes. Overall, the average combined time for preparation and the interview was about 90 minutes (1.5 hours). For a national study involving 1,000 consumers, FTC staff thus estimates the burden hours for the review process to be approximately 1,500 hours (1,000 consumers  $\times$  1.5 hours). Further adding on the time spent for the registration process (0.25 hours per participant), the total burden hours come to approximately 1,750 hours.

#### C. Estimated Cost Burden

The cost per consumer for their participation should be negligible. Participation is voluntary and it will not require any start-up or capital expenditure. There is no labor time expenditure beyond the 1.75 hours per consumer estimated above. Participants may receive an honorarium to compensate them for their time. The amount will be determined by FTC staff in consultation with the contractor according to an analysis of customary procedures and a consideration of response rates within key categories, such as, response rates for consumers with impaired credit. As with the pilot studies, participants will not pay for their credit reports or credit scores.

#### D. Summary of and Response to Public Comments to Prior 60-Day Notice

The commenters were the Consumer Data Industry Association (CDIA), Mr. Chris Hoofnagle of the Berkeley Center for Law & Technology, and Privacy Times submitted by Mr. Evan Hendricks (and signed by additional parties). No comments addressed the cost and hour burden estimates nor challenged the need or the importance of the study. Overall, the comments addressed the qualifications of any potential contractor, the universe of participants to be covered by the study, and some concerns about specific parts of the methodology of the study.

The comment from the CDIA, submitted by Mr. Stuart Pratt, is generally supportive while expressing certain concerns. The CDIA (at 2) believes that the FTC's use of consumer interviews combined with the FCRA dispute process "compares favorably to the flawed methodology employed by consumer groups in their 'studies' of credit report accuracy." The CDIA recommends the FTC highlight these differences in its communications about the study. As discussed above, in its 2004 Report to Congress, the FTC reviewed all prior studies and created a design for a national study to specifically address certain shortcomings of prior approaches. In an upcoming report to Congress about the results of the national study, the FTC will again point out the ways in which the study has addressed prior shortcomings.

The CDIA (at 1) expresses the concern that the methodology may over-sample consumers with low credit scores; it recommends the ultimate study group have credit scores that "are reflective of the distribution of scores in the databases of the nationwide consumer reporting agencies." FTC staff agrees with the stated recommendation. As discussed in the referenced FR notice of July 20, 2009 (at 35194), the second pilot study confirmed that purely random sampling of potential participants yields too few actual participants with low credit scores. In the national study, invitation letters will be sent in progressive waves, and proportionally more invitation letters will be sent to groups having lower credit scores. Based on our knowledge of the second pilot study and also the knowledge that will be gained from the response rates of the earlier waves of letters in the national study, FTC staff will be able to adjust subsequent waves of letters to the potential respondents in certain score ranges so as to achieve a total set of respondents whose credit scores are indeed in line with national norms. It is possible, although not very likely, that the methodology could render a set of respondents having too many people with low scores. However, since the national distribution of credit scores is known (with great refinement), there are recognized statistical procedures to ultimately correct any over-sampling of low scores (should it occur) and to ensure the statistical reliability of the results, including the reliability of the results for the population as a whole.<sup>20</sup>

<sup>20</sup> See, for example, Harnett, Donald L., *Statistical Methods* (3rd ed.), Addison-Wesley Publishing Co., 1984 (pages 253-254).

The CDIA (at 1) also expresses a concern for reaching out to consumers who do not have Internet access. As explained in the FR notice of July 20, 2009 (at 35195), participants will use the Internet to register for the study. However, for those who may not have Internet access, the contractor will also have a procedure to mail the appropriate disclosures and the study steps to the respondent and then receive enrollment information and the consumer's signed consent in paper form. The in-depth review of the credit reports with the participants will occur over the telephone and does not require Internet access.

The CDIA (at 2) recommends that upon assessing errors by a change in credit score that is attributable to certain errors, the FTC also include measures on how a change in score would impact a consumer's interest rate or other credit decisions; e.g., some changes in credit score would keep a consumer in the same "band of risk" determined by the lender, while other changes could place the consumer in a more favorable band of risk and thus allow the lender to proffer a noticeably better interest rate. FTC staff agrees with this recommendation. In reporting the results of the study to Congress, staff fully intends to include the type of discussion and associated measures here indicated.

The comment from the Berkeley Center for Law & Technology, submitted by Mr. Chris Hoofnagle, strongly supports the FTC's announced goal of acquiring "1000 participants who as a group display a diversity on credit scores and on major demographic characteristics in line with national norms." The commenter further recommends, regarding the qualifications of any potential contractor, that the entity be highly qualified to perform consumer surveys and that it be a neutral entity (i.e., have no stake in the outcome of the study). FTC staff readily concurs with the expressed concern. The FTC will publicly solicit competitive bids for performing the study in keeping with a detailed scope of work (to be announced). Staff will carefully review the credentials associated with each bid and proposal and will seek a contractor who is highly qualified to perform the required work and who has no stake in the outcome of the study.

The comment letter from Mr. Evan Hendricks of Privacy Times (signed by additional parties) covers several of the concerns noted above and addressed there (e.g., qualifications of the study contractor and the need for a diverse set of credit scores reflective of national

norms). The commenter further recommends that the study pay special attention to the matter of data matching procedures, covering such matters as the use of Social Security Numbers and partial matches on consumer identifiers. The matter of data matching procedures has been reviewed in the 2004 Report to Congress, and staff does not anticipate that this study will specifically address the internal data matching procedures used by credit bureaus. However, the contractor will keep a detailed narrative regarding each participant, including specific errors alleged and their subsequent disposition. In tabulating the types of confirmed errors via the dispute process, the study will acquire a great deal of information on the main sources of error in credit reports.<sup>21</sup> Further, in regard to an expressed concern from Mr. Hendricks about recognizing ID theft as an important source of error, the category of alleged error called "not mine" will be separated into the subcategories of "mixed file" and "ID theft."

#### *E. Request for Comments to Current 30-Day Notice*

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "National Accuracy Study: Paperwork Comment (FTC file no. P044804)" to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at (<http://www.ftc.gov/os/publiccomments.shtml>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's licensenumber or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . .," as provided in Section 6(f) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments

containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).<sup>22</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following Web link: (<https://secure.commentworks.com/ftc/FACTA319studypra2>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the Web link: (<https://secure.commentworks.com/ftc/FACTA319studypra2>). If this Notice appears at (<http://www.regulations.gov>), you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

A comment filed in paper form should include the "National Accuracy Study: Paperwork Comment (FTC file no. P044804)" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act ("PRA") should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget ("OMB"), Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-5167 because U.S. postal mail at the OMB is subject to delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the

<sup>22</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC's Web site, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC's Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

David C. Shonka,

Acting General Counsel.

[FR Doc. E9-24992 Filed 10-15-09; 8:45 am]

BILLING CODE 6750-01-S

## FEDERAL TRADE COMMISSION

[File No. 092 3140]

### Directors Desk LLC; Analysis of Proposed Consent Orders To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

**DATES:** Comments must be received on or before November 5, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Directors Desk, File No. 092 3140" to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport

<sup>21</sup> See referenced Federal Register Notice at 35193 (note 9) and at 35194 (note 18) for the types of errors to be tabulated.



**Federal Trade Commission**

**Privacy Impact Assessment**

**for the**

*Registration Web Site for FTC's National Study of Credit Report Accuracy*

**October 2010**

## 1. System Overview

The Federal Trade Commission (FTC) is conducting a nationwide study on the accuracy of information contained in consumer credit reports, as required by Section 319 of the Fair and Accurate Credit Transactions Act of 2003. Researchers at the University of Missouri-St. Louis (the “University” or “UMSL”), which is serving as lead contractor for the FTC for this study, will be creating and using a Web site to register individuals who volunteer to participate (“registration Web site”).<sup>1</sup> Researchers will also create and maintain a database of anonymized credit reporting data obtained with the consent of such individuals. Researchers will use this data to analyze the accuracy of such credit reports, and to summarize their research results (without disclosure of any individual data) for the FTC’s report to Congress. As required by the E-Government Act of 2002, the FTC is posting this privacy impact assessment (PIA) to explain to the public what information its researchers will be collecting and maintaining electronically about individuals, why it is being collected, and how it will be safeguarded to protect its privacy.

The study will review certain credit report information, and various procedures are in place to protect consumer privacy as much as possible. Notably, the employed procedures ensure that the study will not collect, maintain, or review any sensitive information in identifiable form. A summary of the procedures and safeguards is given here, along with references to sections where specific matters are addressed.

As noted above, the FTC’s researchers will be using a Web site in order to register individuals who will have been previously invited by mail to participate voluntarily in the FTC’s study. (A similar registration method was used in the second pilot study, which prepared for this national study.<sup>2</sup>) The purpose of the Web site presently being created is three-fold: (1) to determine that the individual is eligible to participate (e.g., 21 or older); (2) to confirm that the individual knows and consents to the terms of participation (e.g., to have their credit reports reviewed for accuracy by the FTC’s research team), and (3) to register the individuals who qualify and consent. The study group will comprise approximately 1,000 individuals.

By enrolling for the study at UMSL’s registration Web site, an individual will be authorizing the FTC’s researchers to obtain that individual’s credit report data – which will be redacted as explained below– from a private third-party industry entity, Fair Isaac Corporation (FICO), and to use such data to perform the Congressionally mandated study.<sup>3</sup>

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<sup>1</sup> See note 6 regarding the members of the research team.

<sup>2</sup> This Privacy Impact Assessment is similar to one performed earlier for a second pilot study; *Registration Web Site for the FACTA Credit Report Accuracy Study— Privacy Impact Assessment (February 2008)*. It may be accessed at <http://ftc.gov/os/2008/02/08022pia.pdf>.

<sup>3</sup> FICO maintains individual credit reporting data compiled from the national credit reporting agencies, and will be the source of the credit report data to be used in this study.

(continued...)

Participation in the study is voluntary, and there is no consequence for not participating. Study participants will provide very limited personal information to the registration Web site, mainly contact information such as name, address, telephone number, and email address (see Section 2.1 below). At the registration Web site, the person must also enter his or her assigned study ID number – a unique number communicated to the consumer in the FTC’s invitation letter – thereby identifying that individual as a solicited consumer. The individual is informed that this study ID, the individual’s email address, and an assigned password, randomly generated by the site, will be used (see detail in Sections 2.1 and 2.3) at FICO’s Web site ([www.myfico.com](http://www.myfico.com)) operated by FICO in cooperation with national credit reporting agencies, so that researchers and the study participant will have access to the individual’s credit report data. Through that site, study participants will also receive copies of their credit reports and scores free of charge.

The University researchers assigned to the study will print a copy of a participant’s credit reports from *myFICO.com* so that they may review these reports for accuracy with the consumer. These credit reports are partially redacted; i.e., date of birth is suppressed and most of the digits of the consumer’s SSN and of any account numbers are also suppressed in printing the report. In preparation for the review, University researchers will mail copies of these same reports to the participants. Credit report information that a participant alleges to be erroneous and that is material to creditworthiness is entered into a separate *research database* (Section 2.1) in the same redacted form in which it was received. This information will be provisionally re-scored (see note 6), and the challenged information will also be disputed by the study participant through a formal industry dispute process.<sup>4</sup> Both the outcome of these disputes and the re-scoring of the challenged information are entered into the research database.

Critical to the protection of the consumer’s privacy and the safeguarding of information is the separation between the registration Web site database and the research database of redacted credit report data to be used in the study.<sup>5</sup> The only information common to both databases is the set of study IDs. Each database is encrypted and password-protected.<sup>6</sup>

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<sup>3</sup>(...continued)

Neither the FTC, nor its research team, controls or operates the FICO Web site, which is funded and maintained by private sources. FICO will not be collecting or maintaining credit report data on behalf of the FTC, and their privacy practices and policies are not covered by this PIA.

<sup>4</sup> The study employs a dispute process set forth by the Fair Credit Reporting Act (FCRA), which allows consumers to dispute credit report items that they believe to be erroneous. The methodology for the study is set forth in a Federal Register Notice of July 20, 2009, 74 Fed. Reg. 35193, which includes a description of the FCRA dispute process.

<sup>5</sup> Additional information stored in this database is discussed in Section 2.1.

<sup>6</sup> Access to the registration database is granted to designated University researchers, who receive administrative passwords to perform their assigned work. Certain of these researchers  
(continued...)

Only the University researchers and no other individuals or entities will have access to the data collected by the registration Web site or to the credit report database. Registration Web site data will associate participants' study IDs with their respective names and addresses, but this database does not contain information such as financial account numbers, SSNs, drivers' license numbers, or similarly sensitive information. The separate research database containing credit report data will associate such data with individual study IDs, but it will contain no other direct personal identifiers. Any electronic transmission of the information in these databases between persons assigned to the study, i.e., between or among University researchers, FTC staff, and FICO staff involved in the re-scoring process, will occur only in an encrypted and password-protected form. The handling and storage of data has also been designed to minimize a risk to participants from illegal hacking or intrusion.

At the conclusion of the study, the contractor will transfer the data from the research database to the FTC, identified only by study IDs and no other personal identifiers that could be used to re-identify individual participants. Importantly, the registration database, which relates a person's study ID to his or her personal identifying information, is not provided to the FTC (nor to anyone; see Section 3.3), and the contractor will be instructed to destroy the registration database. At the conclusion of the study, no personal identifiers that could be used to re-identify individual study participants will exist. (Section 7 addresses the destruction of the study's mailing list, to further eliminate the possibility of re-identification.)

## **2. Information Collected and Stored within the System**

### **2.1 What information is to be collected, used, disseminated, or maintained by the system?**

Regarding individuals who meet the study criteria<sup>7</sup> and who give consent to have their

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<sup>6</sup>(...continued)

are located at the University of Arizona (hereinafter, UA); the UA researchers are formally subcontracted under the lead contractor, UMSL. The UA researchers assist in reviewing credit reports with participants. All procedures for researchers who review reports with consumers are the very same, whether researchers are at UMSL or UA (hereinafter, collectively *University researchers*). Regarding the research database, each university has its local component, again with identical procedures. Over the course of the study, and by means of encrypted and password-protected files, UA's research database is progressively merged with the one at UMSL; collectively *the research database*. By separate agreement with FICO, the University researchers will also be working with FICO staff who will provisionally re-score material credit report information that study participants allege to be erroneous. FICO will have no access to any of data collected by the researchers other than redacted credit report data that the researchers will transmit to FICO for such provisional re-scoring (see Section 2.1.)

<sup>7</sup> At a screen that occurs before consent to the study is requested, the consumer is asked  
(continued...)

credit reports reviewed for accuracy with the research team (explained further below), the registration Web site will collect (or generate) and maintain the following information: (a) first name, (b) last name, (c) address (street, city, state, zip code), (d) phone number, (e) best time for calling (evenings, mornings, etc.), (f) email address, (g) a study ID number, and (h) an assigned password (randomly generated by the site and to be used subsequently in the study; see below).

The participant's study ID, which is provided in the FTC's invitation letter, is used by an individual to enter the registration Web site and is collected by this site. As explained below in Sections 2.3 and 2.8, the participant's email address, the password generated and assigned by the site, and the study ID are subsequently used for obtaining credit reports and scores at FICO's Web site, *myFICO.com*.

Certain credit report information is collected in the course of the study. As noted earlier, University researchers print copies of participant credit reports from *myFICO.com* in order to review the reports for accuracy with the consumer. These reports are obtained by the researchers in a partially redacted form (i.e., date of birth is suppressed and most of the digits of the consumer's SSN and of any account numbers are also suppressed upon printing the reports).<sup>8</sup>

Items that affect creditworthiness and that are alleged to be in error by a participant are placed, in the redacted form received, in the collective *research database*.<sup>9</sup> Additional items recorded there are: a provisional rescoring by FICO of the challenged items;<sup>10</sup> the

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<sup>7</sup>(...continued)

to confirm ("yes / no") that the person is 21 or older, has a credit card or has used some form of credit, and is currently not employed by a credit bureau.

<sup>8</sup> Printed copies of these credit reports, along with any notes taken during the telephone interview, are maintained in a locked filing cabinet, further placed in a locked University office.

<sup>9</sup> Over the course of the study, two local components of the research databases are maintained; one at UMSL, another at UA. The type and format of data which UMSL researchers place in their local component of the database are the same as for UA. All data placed in either database are recorded only by study IDs. Periodically, via encrypted and password-protected files, the anonymized data under the study IDs from UA are *row-added* to UMSL's database.

<sup>10</sup> As noted earlier, see note 6, files with consumer alleged errors are subject to rescoring by Fair Isaac. University researchers will electronically transmit to Fair Isaac copies of files with any alleged "corrections" imposed. Before transmitting such files, the researchers ensure that all identifying information, if any, such as names, addresses, employer names, have been removed (further, the information is already redacted as described above). Only a study ID is used as the file identifier. Fair Isaac electronically returns the rescored file to University

(continued...)



outcome of disputes<sup>11</sup>; the participant's original credit scores from the three national credit bureaus upon drawing the reports; discrepancies among the three reports;<sup>12</sup> brief notes about a consumer that critically affected participation (e.g., moved out of the country, illness, divorce, death of a family member); and certain demographic information collected at the conclusion of the study.<sup>13</sup> Again, all data placed in the research database are recorded only under study IDs. The database (both the UMSL and UA components) are encrypted and password-protected, and they do not contain any personal identifying information.

The University server for the registration Web site collects log information (e.g., IP address, date and time of visit) of individuals who visit the Web site, with or without registering for the study.

## **2.2 What are the sources of the information in the system?**

The contact information collected at the registration Web site (listed in Section 2.1) is obtained from individuals who voluntarily submit that information upon agreeing to participate in the study. The source for the consumer's assigned password (to be used at FICO's Web site) is the registration Web site, which randomly generates a unique password for each study participant. The source for a participant's study ID is the FTC invitation letter to the consumer. The source for demographic and similar information discussed in Section 2.1 is the participant, who again voluntarily submits the information. The source for the collected credit report information is *myFICO.com*, a Web site where study participants (as well as the public) may access their credit reports. The source for any re-scored data is also FICO. The source for miscellaneous notes that may added to

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<sup>10</sup>(...continued)

researchers. These transmissions occur in small batches; they are password-protected and do not involve personal identifying information, sensitive or otherwise. The resulting rescored items are entered in the research database.

<sup>11</sup> Outcomes of disputes are recorded as follows: item(s) deleted from a credit report by lender or data furnisher; item(s) changed in the report (with specific changes); item(s) kept as originally reported; and item(s) deleted by CRA due to the expiration of a statutory time frame.

<sup>12</sup> Examples are the following: one report lists an account as open and active, another report lists it as closed; one report lists a certain payment as late, another lists it as on time; one report lists a stated lien as discharged, another lists it as undischarged; and more generally, any information that is clearly discrepant among the three reports.

<sup>13</sup> There is a concluding survey that collects a participant's gender, ethnicity, income level, educational level, and similar such demographic information.

the research database are the FTC's researchers and the participants.<sup>14</sup>

### **2.3 Why is the information being collected, used, disseminated, or maintained?**

The reasons or purpose(s) of information collection at the registration Web site all relate to executing the FTC's national study: (1) to determine that an individual is eligible to participate (e.g., is 21 or older); (2) to confirm that the individual knows and consents to the terms of participation (e.g., to have their credit reports reviewed for accuracy by the FTC's research team), and (3) to register those individuals who qualify and consent.

The collected contact information will allow the FTC's researchers to communicate with study participants. Once the information has been collected by the registration Web site, a screen informs the participant they will be hyperlinked to the *myFICO.com* Web site maintained by Fair Isaac in order to obtain credit reports and scores. Before being hyperlinked from the registration site to FICO's Web site, the person's study ID is electronically transferred to FICO's site; the ID authenticates the person to FICO as a valid study participant who is also eligible for free reports and scores. Thus, an important purpose of the study ID is to ensure that the registration Web site, as well as the related site at FICO, is used only by solicited consumers.

Although procedures at *myFICO.com* are not covered by this PIA, they are presented for a fuller understanding of the steps in the study. In order to set up an account at FICO's Web site, a person (whether study participant or not), needs to enter the following: name, address, SSN, age, a login ID, a password, and also answer certain security questions before any credit reports are provided (e.g., latest mortgage payment, car payment, or similar such questions tailored to the consumer's credit report). Study participants have been told at the registration site that their login ID at FICO is their email address and that their password is the one pre-assigned at registration. Upon completion of this procedure participants may view their credit reports and scores on line for 35 days at no charge and may also download these reports.

In agreeing to the study, the consumer has given permission to the University researchers to draw their credit reports and to review them with the consumer.<sup>15</sup> A further purpose of the study ID is to enable University researchers to obtain (i.e., print) duplicate copies of the participant's credit reports and scores by entering their study ID and an administrative

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<sup>14</sup> Distinctions between participant access and public access are discussed below.

<sup>15</sup> This agreement is confirmed twice; first at the registration Web site (further discussed in Section 4.1) and then at FICO. As part of setting up a participant account at *myFICO.com*, there is a screen that again requests the consumer's consent to the terms of the study. The person responds by clicking either "I agree" or "I do not agree." If a person chooses "I do not agree," a new screen informs them that they are not eligible to receive free reports and scores through the study, and refers them back to FICO's home page.

password. This latter password, which pertains uniquely to the study, is created and administered by FICO. The purpose of the credit report and other data in the research database is to analyze the accuracy of such data and for reporting to Congress (without disclosure of individual data).

#### **2.4 How is the information collected?**

All information collected at the registration Web site is collected electronically through various screens at the site, and similarly so for information collected at *myFICO.com* in connection with the study. Some information in the research database is manually entered by the FTC's researchers (e.g., notes).

For consumers who do not have Internet access but wish to participate in the study, a special procedure is planned. The invitation letter provides a toll-free number that solicited consumers may call if they have questions. This call center is administered by University research associates, who can assist consumers with the registration process. If a solicited consumer has no Internet access, a research associate may complete the registration procedure over the telephone with the consumer's permission, inclusive of establishing their account at *myFICO.com*.<sup>16</sup> In view of the Internet's ubiquitous presence, we expect this special procedure would apply to at most a small minority of participants, if any.

#### **2.5 How will the information be checked for accuracy and timeliness (currency)?**

After the registration procedure and the consumer's receipt of their credit reports, a University researcher telephones the individual to review the credit report information and the contact information. If, at some subsequent point, individuals believe that their registration information is incorrect or out-of-date, they may simply communicate the new information to the FTC's research team at [busresc2@umsl.edu](mailto:busresc2@umsl.edu) or by calling the toll free number.

#### **2.6 Is the system using technologies in ways that the FTC has not previously employed (e.g., monitoring software, Smart Cards, etc.)? If so, how does the**

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<sup>16</sup> When a solicited consumer calls for assistance with registration, the associate will confirm that the person has received the FTC invitation letter (and ask for the study ID) and also confirm that the person has no Internet access (e.g., via a friend, neighbor, or public library). Upon confirmation, and with the consumer's permission, the associate would enter the contact information at the registration Web site on the consumer's behalf, and also enter the information required at FICO's Web site (described earlier). To confirm the consumer's permission for this enrollment, the individual would mail back a signed (prepared) consent form, where the latter is included in all FTC invitation letters. No credit report would be accessed until the associate has received the signed consent form. The consumer's SSN would be used once in setting up the account at *myFICO.com* and no record of the SSN would be kept.

## **use of this technology affect individuals' privacy?**

The system does not use technology that has not been previously employed, save at one point: in contrast to the pilot studies, the national study will use an electronic transfer of a participant's study ID to FICO's portal, which will identify the person as having enrolled at the University's registration Web site (a study participant). This transfer is encrypted and poses no appreciable threat to a participant's privacy or information collected by the study.<sup>17</sup>

### **2.7 What law or regulation permits the collection of this information?**

The Fair and Accurate Credit Transactions Act of 2003, which directs the FTC to do a study of credit report accuracy, permits the collection of information for the purpose of the study.

### **2.8 Considering the type of information collected and sources of collection, what privacy risks were identified and how were these risks mitigated?**

This study involves a review of certain credit report information. As noted throughout, various procedures are in place to protect consumer privacy as much as possible, recognizing that the consumer has given permission for this review. An important mitigation of privacy risk is the fact that the study will not collect or review any sensitive personal identifying information.

As noted earlier, the registration Web site collects consumer contact information (name, address, telephone number, email address, best time to call), a study ID, and an assigned password. After credit reports have been drawn and printed<sup>18</sup> and reviewed with the consumer over the telephone, certain credit data (see earlier Section 2.1) are placed by University researchers in the *research database* after having removed all personal identifying information from that data, which is further partially redacted as described earlier. The resulting information is maintained and associated only with study ID. Also, the procedures and contractual obligations ensure that only the researchers who are assigned to interview consumers about their credit reports, and no other researchers (e.g., FTC staff assigned to the study or FICO staff who will re-score credit data), will know the personal identity of any participant. To further mitigate privacy risks, any communications about participant information between University researchers and FTC staff, or between University researchers and FICO staff, will occur only via study IDs.

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<sup>17</sup> Study IDs are transferred, one at a time, to FICO's portal after a person enrolls at the registration Web site. If any study ID were captured by an unwanted source, it would not be sufficient (see Section 2.3) to obtain any participant credit report information.

<sup>18</sup> As noted earlier, printed copies are stored in a locked filing cabinet, that is further located in a locked office.

Regarding credit report information that is downloaded from *myFICO.com*, this avenue is provided by *myFICO.com* to any consumer who has set up an account at that site.<sup>19</sup> The privacy risk associated with participants obtaining their credit report information in this study via *myFICO.com* is essentially the same as what may apply to any consumer who would use that site.<sup>20</sup> Consumers may visit *myFICO.com* to read the site's privacy policy and learn more about FICO's privacy and security procedures and practices.

As noted earlier, critical to the protection of consumer privacy and safeguarding the information collected by the FTC's researchers in this study is the separation between two types of data: individual registration data and credit report data. Each type is maintained in a separate, encrypted, and password-protected database. Access is granted only to those who need to use the information in the course of the study. There are also specific contractual obligations about the collection, storage, transmission, and disposal of all information pertaining to the study. The procedures regarding the collection, storage, transmission, and disposal of data have been designed to minimize the risk from illegal hacking, intrusion, or misuse of data. (See Section 6 (Security).)

### **3. Use and Access to Data in the System**

#### **3.1 Describe how information in the system will or may be used.**

Contact information collected by the registration Web site from study participants (name, address, telephone number, and email address) will be used to establish and maintain contact with participants in the study. The study ID is used by a person to enter the registration Web site and also (as one element) in establishing an account at *myFICO.com* to obtain credit reports and scores. The University researchers also use the study ID at FICO's Web site, along with an administrative password, to print a copy of participant credit reports in preparation for a review of the reports with the consumer. The study ID is thus used to relate a participant to his or her credit report information. The resulting credit data will be analyzed for accuracy and used by researchers in

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<sup>19</sup> The privacy and security of FICO's Web site is not covered by this PIA, since neither the FTC nor its researchers are using that site to collect or maintain information on individuals for the FTC. Nonetheless, the FTC notes that the information accessible on that site can only be viewed or downloaded; there is no avenue on that site by which researchers (or consumers) are permitted to change the information stored there by FICO. Consumers may seek to change their credit information through normal credit reporting procedures that affect any consumer's credit history, or through the FCRA dispute process, which allows a consumer to dispute his or her credit report information.

<sup>20</sup> For study participants, there is an electronic transfer of study ID (discussed above), the risk of which is being mitigated by security controls (e.g., encryption); also, participant date of birth will be suppressed when the credit reports are printed from the site, which further enhances privacy protection.

preparing the FTC's required report to Congress.

### **3.2 Which internal entities will have access to the information?**

The registration Web site data will be accessed by University researchers for the purposes described above and will not be transferred to the FTC or become part of any agency (or government) records. Likewise, Web site logs maintained by the University researchers will not be transferred to the FTC or made any part of FTC records.

The research database (discussed in Section 2.1) will be accessible by University researchers assigned to the study. Over the course of the study this information will also be shared with certain FTC staff (i.e., those assigned to the study) by means of participant study IDs. These shared data will thus be anonymous in nature; nonetheless, they will be electronically transferred in encrypted and password-protected files.

FICO will not be given access to participant contact information collected through the registration Web site, even though participants themselves will need to provide certain personal identifying information (described earlier) in order to establish an account at FICO's Web site to receive credit reports and scores. Further, FICO has no access (nor any need for access) to the research database.

### **3.3 Which external entities will have access to the information?**

There are no external entities that will have access to any of the information collected or maintained by the study, except for disclosures, if any, that may be required by law, e.g., subpoena or other legal process. Although the FTC's will use the data in the preparation of the report that the FTC is mandated to submit to Congress, the report will not include or disclose any individually identifiable data.

## **4. Notice and Access for Individuals**

### **4.1 How will individuals be informed about what information is collected, and how this information is used and disclosed?**

Participants receive several forms of notice before their consent to the collection of any information is requested. First, the FTC's invitation letter used to solicit consumers outlines the major steps of the study and provides a copy of the consumer consent form, which further highlights the type of information to be collected, how it would be used, and what the consumer agrees to in connection with the study. Further, the registration Web site, to which the consumer is directed via the letter, provides the FTC's privacy policy that is employed in the study. The policy is accessible by a hyperlink from the top bar placed at every screen of the site. The policy explains what information is collected by the site, why it is collected, how it will be used, how the information is secured, and other matters. Third, also at the registration Web site, the first three screens – which cannot be skipped by the consumer in moving through the site – provide a summary of

the study and various steps that a participant would agree to. All of this information is provided before the individual is requested to agree to the terms of the study or to give any contact information.

**4.2 Do individuals have the opportunity and/or right to decline to provide information?**

Participation is voluntary and anyone may decline to provide the requested information. Consumers are informed that if they decline to provide information that is needed for the study, then they cannot qualify to be participants.

**4.3 Do individuals have the right to consent to particular uses of the information? If so, how would an individual exercise this right?**

No. At the registration screen that requests the consumer's consent to the study, the consumer responds by clicking "I agree" or "I do not agree." Should a person forget to click one of these options, a special prompt is given and the person cannot proceed until this action is completed. For those who click "I agree," a new screen requests the contact information (discussed earlier).

**4.4 What are the procedures that allow individuals to gain access to their own information?**

As noted earlier, individuals who believe that their contact information is incorrect or out-of-date during the course of the study may simply communicate this to the FTC's research team at [busresc2@umsl.edu](mailto:busresc2@umsl.edu) (or, absent email, call a toll free number to talk to a research associate). Further, paper copies of participant credit reports (as described earlier) are mailed to participants by University researchers for the subsequent review of credit report accuracy over the telephone, but consumers will not have direct access to the research database maintained by the research team.<sup>21</sup> (See also Section 8 regarding Privacy Act procedures for requesting access to agency records, if any, containing an individual's data.)

**4.5 Discuss the privacy risks associated with the process of providing individuals access to their own records and how those risks are mitigated.**

Consumers do not have direct electronic access to their data in the registration Web site, except to enter registration data. (Likewise, as noted above, they have no direct electronic access to the credit report database containing their redacted credit report data, which is accessible only to researchers.) Regarding a person's access to the registration information that they have provided, the privacy risk is negligible. The consumer's

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<sup>21</sup> Although *myFICO.com* is not covered by this PIA, we note that a participant's account at *myFICO.com* permits participants to view their credit reports online for 35 days.

provided information consists of name, address, email address, phone number, and best time to call. If the latter were changed/captured by an unwanted person, it would not be sufficient to change or grant access to a participant's credit reports at FICO's Web site.<sup>22</sup> Further, regarding the mailed credit reports to a participant, these reports are redacted in the manner described earlier, which mitigates privacy risk regarding unwanted interception of this information.<sup>23</sup>

## 5 Web Site Privacy Issues

### 5.1 Describe any tracking technology used by the Web site and whether the technology is persistent or temporary (e.g., session cookie, persistent cookie, Web beacon). Currently, persistent tracking technology is not approved for use by the FTC (see 5.2).

The University server for the registration Web site collects (i.e., preserves) "log" information (e.g., IP address, date and time of visit) of individuals who visit the Web site. "Cookies" (i.e., small text files placed and stored on the user's computer by the Web site, which can be used to collect and maintain information about the user's activities on the Web site) are non-persistent; they are deleted automatically when the user closes the Web browser by which the information is collected.

### 5.2 If a persistent tracking technology is used, ensure that the proper issues are addressed (issues outlined in the FTC's PIA guide).

No persistent tracking technology is used.

### 5.3 If personal information is collected through a Web site, page, or online form accessible through the Internet, is appropriate encryption used? If not, explain.

All collected information is encrypted under *https* (a secure Internet protocol).

### 5.4 Explain how the public will be notified of the Privacy Policy.

The privacy policy is posted at the registration Web site; it is accessible by a hyperlink from the top bar at every screen of the site. It is machine readable (P3P-compliant).

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<sup>22</sup> As noted above, any consumer who requests credit reports at *myFICO.com* needs to enter the person's name, address, age, SSN, a login ID, a password (as well as answer certain security questions). As also explained earlier, neither SSN nor age is collected by this study.

<sup>23</sup> First class mail is normally used for credit reports that are mailed by national CRAs; first class mail is also used by the study contractor.



**5.5 Considering any Web site or Internet issues, please describe any privacy risks identified and how they have been mitigated.**

This matter is addressed in Sections 2.8 and 4.5.

**5.6 If the Web site will collect personal information from children under 13, or be directed at such children, explain how it will comply with the Children's Online Privacy Protection Act (COPPA).**

The Web site will solicit and collect information only from those who identify themselves as 21 years or older; thus, COPPA does not apply.

**6 Security of Information in the System**

**6.1 Are all IT security requirements and procedures required by federal law being followed to ensure that information is appropriately secured?**

Yes. The contractor warrants and agrees that it shall not use any non-FTC network or facility (e.g., commercial, corporate, university) to store or process Sensitive Information on behalf of the FTC, unless such network or facility is an information system currently certified and accredited under the Federal Information Security Management Act (FISMA), or such network or facility otherwise has adequate administrative, technical, physical and procedural controls, including a program of continuous monitoring to ensure such controls remain in place and fully operational, to ensure the security (i.e., confidentiality, integrity and availability) of Sensitive Information stored or processed for the FTC using such network or facility.

**6.2 Has a Certification & Accreditation been completed for the system or systems supporting the program?**

No. The registration Web site and the related screen at FICO's site that validates certain consumers as study participants (via the secure transfer of study IDs) are designed solely for the purpose of this study and their use will end within six months from the initiation of participant enrollment.

**6.3 Has a risk assessment been conducted on the system?**

A risk assessment in association with a Certification and Accreditation has not been completed. However, information security procedures to be used during this national study, covering both the registration and research database, were successfully tested and employed during the second pilot study of credit report

accuracy which involved its own PIA.<sup>24</sup> Interested parties may also consult FTC *December 2008 Report to Congress*, which reviews the procedures and findings of the second pilot study and is accessible at: <http://www.ftc.gov/opa/2008/12/factareport.shtm>).

**6.4 Does the project employ technology that may raise privacy concerns? If so, please discuss its implementation.**

Privacy concerns are not raised by the project's technology, which employs no unusual technology.

**6.5 What procedures are in place to determine which users may access the system and are they documented?**

Access to both the registration and research databases is granted on a need-to-know basis within the FTC and the Universities conducting this study. There are also specific and detailed policy and procedures attached to the contract concerning safeguards for all data collected during the course of this study.

**6.6 Describe what privacy training is provided to users either generally or specifically relevant to the program or system.**

The contract requires that privacy training be provided to all University researchers prior to their participation in the study. The contractor provided a description of the privacy training, and the FTC has determined that the course content is commensurate to the categorization of the data to be handled during the study. Additionally, the contractor shall verify the successful completion of the privacy training for all University researchers involved in this study.

**6.7 What auditing measures and technical safeguards are in place to prevent the misuse of data?**

The University has an Information Security Program, which is described at <http://infosec.missouri.edu>.<sup>25</sup> To the extent possible, the FTC has reviewed the documents available at this website. These documents describe policies which

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<sup>24</sup> *Registration Web Site for the FACTA Credit Report Accuracy Study—Privacy Impact Assessment (February 2008)*; it may be accessed at <http://ftc.gov/os/2008/02/08022pia.pdf>. In terms of technology, the main point of difference is that the national study will employ a secure electronic transfer of a study ID number, which identifies a person as a solicited consumer. No such electronic transfer was used in the second pilot study. For the rest, the technology and study procedures are the same.

<sup>25</sup> An audit of this security system was performed by Price Waterhouse three years ago.

are commensurate with the sensitivity level of the data being created, used, stored, and transmitted by the University.

**6.8 State that any questions regarding the security of the system should be directed to the FTC's Chief Information Security Officer.**

Any questions regarding the security of the system should be directed to the FTC's Chief Information Security Officer.

**7 Data Retention**

**7.1 For what period of time will data collected by this system be maintained?**

Data will be collected throughout the course of the study, which (by contract) is expected to run 66 weeks; the data would be maintained for this same period.

**7.2 What are the plans for destruction or disposal of the information?**

At the conclusion of the study, the FTC will require that the registration database, as well paper copies of credit reports and related notes, be destroyed; electronic data to be permanently deleted and data in paper form to be shredded. Credit data from the research database will be securely transferred to the FTC, and such data are anonymized, associated only with individual study IDs and no other personal identifiers. Further, the FTC's third party mailer, hired to send the invitation letters to consumers, will be instructed to destroy the mailing list when it is no longer needed. (All mailings are expected to be finished by six months from the initiation of the study; thereafter, the mailing list has no further use and it will be destroyed.)

**7.3 Describe any privacy risks identified in the data retention and disposal of the information, and describe how these risks have been mitigated.**

Any retention of data would occur only in de-identified form, so that such data cannot be tied to any individual. The data disposal methods to be used will not require transfer to or access by others that could present specific privacy risks. Importantly, the FTC never receives a copy of the registration database, which contains the consumer's contact information associated with their study IDs. Thus, the FTC will not have any ability to re-identify the participants, as the agency will not receive any information that could allow it to do so. Such re-identification is not necessary for this study. All analysis of the study will address only the anonymous and redacted data in the research database.

**8 Privacy Act**

**8.1 Will the data in the system be retrieved by a personal identifier?**

Yes. As noted above, contact information in the registration database is associated with study ID number, as well as a person's name and address. Study participants who believe that their contact information is incorrect or out-of-date can communicate new information to the research team (see Section 2.5). Likewise, credit data in the research database will be associated with and retrieved by individual study ID, where necessary.

**8.2 Is the system covered by an existing Privacy Act System of Records notice (SORN)?**

Although registration data and the credit report data can be retrieved by certain anonymized personal identifiers, the FTC is not taking custody and control of individuals' data in identifiable form. Nonetheless, to the extent that such records are deemed legally subject to the Privacy Act as agency records, those records would be covered by the SORN that applies to the agency's nonpublic legal program records (FTC I-1). <http://www.ftc.gov/foia/listofpaysystems.shtml> In addition, to the extent that the data are deemed to be system user data, the SORN covering such records (VII-3) would apply.

Moreover, the FTC's invitation letter and the registration Web site present appropriate privacy notices, consistent with the Privacy Act. This disclosure (notice) is the following.

*Privacy Act Statement.* Congress has directed the FTC to do this study, and The Fair and Accurate Credit Transactions Act of 2003 permits the collection of information from you for the purpose of this study. The FTC's researchers will be collecting this information, but the FTC does not intend to make any of your personal information part of its own records. To the extent that the Privacy Act of 1974 applies, your information would be treated as part of the agency's legal records system. You can read about routine uses of such records on the FTC's Web site (<http://www.ftc.gov/foia/sysnot/i-1.pdf> or <http://www.ftc.gov/foia/sysnot/i-1.wpd>). Your participation is completely voluntary, but please understand that if you choose not to provide information that we need for the study, then you cannot qualify to be a participant.

**9 Privacy Policy**

**9.1 Confirm that the collection, use, and disclosure of the information in this system has been reviewed to ensure consistency with the FTC's privacy policy.**

The collection, use, and disclosure of the information in this system has been reviewed to ensure consistency with the FTC's privacy policy.

**10 Approval and Signature Page**

Prepared for the Business Owners of the System by:

\_\_\_\_\_ Date: \_\_\_\_\_  
Peter J Vander Nat, Ph.D.  
FTC Bureau of Economics

Review:

\_\_\_\_\_ Date: \_\_\_\_\_  
Alexander C. Tang, Attorney  
Office of the General Counsel

\_\_\_\_\_ Date: \_\_\_\_\_  
Marc Groman  
Chief Privacy Officer

\_\_\_\_\_ Date: \_\_\_\_\_  
Margaret Mech  
Chief Information Security Officer

Approved:

\_\_\_\_\_ Date: \_\_\_\_\_  
Pat Bak  
Acting Chief Information Officer