



June 18, 2008

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Re: Credit-based Insurance Score – Homeowners Insurance – P044804

Dear Mr. Clark:

State Farm Mutual Automobile Insurance Company and its various subsidiaries and affiliates (collectively, “State Farm”) thank the Federal Trade Commission (“FTC”) for the opportunity to comment on the FTC’s proposed Order to File a Special Report (“Order”) under Section 6(b) of the Federal Trade Commission Act (“FTC Act”).

State Farm is a mutual insurance company, meaning that it is not owned by stockholders, and its Board of Directors is elected by its policyholders. State Farm companies offer financial services, including auto and homeowner’s insurance, to consumers through a network of agents. State Farm companies insure more cars and homes than any other insurer in the United States. State Farm’s 17,000 agents and 67,000 employees serve over 77 million auto, fire, life and health policies in the United States and Canada.

Introduction

Section 215 of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”) requires that the FTC study the use of credit-based insurance scores in connection with property and casualty insurance. The FTC is fulfilling this requirement by preparing two separate studies: (1) a study of the use of credit-based insurance scores in connection with auto insurance (the “Auto Study”), and (2) a study of the use of credit-based insurance scores in connection with homeowner’s insurance (the “Homeowners Study”). The Auto Study was published last summer, and the FTC is in the process of conducting the Homeowners Study.

On May 19, the FTC published the Order for public comment. The FTC has stated that it “plans to serve [any final Order] on nine firms that represent roughly 60 percent of the homeowners insurance market.”¹ It is unclear if any of the companies in the State Farm family would be among the nine companies that will receive the subpoena, but because State Farm has been engaged in an ongoing effort to assist the FTC with the Homeowners Study, State Farm has determined to comment on the proposed Order.

State Farm developed the use of credit-based scores to predict more accurately the risk of loss presented by individual policyholders and to avoid impermissible discrimination in the underwriting of insurance. The FTC’s Auto Study confirmed that credit-based insurance scores, because they are effective predictors of risk, work as intended by better matching price to risk allowing lower-risk consumers to pay lower premium, and may have the effect of expanding access to and reducing the cost of auto insurance. State Farm is confident that the Homeowners Study will reach a similar conclusion. State Farm notes that other studies on this same subject conducted by insurance regulators have concluded that credit-based insurance

¹ See <http://www.ftc.gov/opa/2008/05/comprofyi.shtm>.

scores accurately predict risk of loss and do not discriminate against consumers on an impermissible basis.²

State Farm, individually and through the National Association of Mutual Insurance Companies (“NAMIC”), State Farm’s trade association, cooperated fully with the Auto Study, and has consistently sought to cooperate with the Homeowners Study as well. As mentioned in more detail below, nearly three years ago, State Farm assembled a data set as part of an industry coalition which would have enabled the FTC to prepare a study meeting the requirements of FACT Act Section 215. As recently as this April, State Farm, as a part of an industry coalition, submitted to the FTC a plan for conducting the study, but the FTC never responded to the industry’s offer. Instead, the FTC published the proposed Order.

State Farm’s trade association, NAMIC, has also filed a comment on the Order, which State Farm incorporates herein by reference. As outlined in greater detail in NAMIC’s comment, the FTC does not have the authority to compel production of data in connection with the Homeowners Study. Furthermore the FTC has not undertaken the efforts required by the Paperwork Reduction Act to minimize the burden of its collection of information. Nonetheless, State Farm stands ready to cooperate with the FTC on the Homeowners Study, just as it did with the Auto Study.

In fact, State Farm would welcome the opportunity to cooperate with the FTC on the Homeowners Study, but as drafted the Order would impose an enormous burden on State Farm and its policyholders, with no corresponding public benefit. For example, State Farm companies had more than 17 million homeowners policies in effect during the period 2004-2006. Over the three-year period covered by Sections 3-7 of the Order, there would probably be at least 4 renewal transactions each for nearly all of those policies—counting only renewals, but not even counting mid-term changes. We have estimated that State Farm would need to process and summarize more than 200 million daily transactional statistical records in order to comply with Sections 3-7 alone. Since multiple State Farm database sources are likely to be required to develop the wide scope of information requested for each policy, even far more data records probably need to be processed. We also estimate that State Farm would report more than 100 million records (lines of data) to the FTC. The policyholder data requested in section 2 of the Order will result in State Farm reporting about 25 million additional lines of data to FTC. The claim data requested in section 9 of the Order will result in State Farm reporting more than 2 million additional lines of data to FTC, even if the claim data is not reported by peril. The application and quote data requested in section 10 of the Order will result in State Farm reporting at least 15 million additional lines of data to FTC. Since companies representing about 60% market share are to be asked to report data, it is likely that the industry will be reporting 2.5 to 3 times as much data as State Farm alone. In total, FTC might be requesting as many as a half a billion lines of data. State Farm believes that the Homeowners Study can be conducted much more effectively and accurately by using statistical sampling techniques and aggregated data to protect the confidentiality and security of individual policyholders’ personal information and individual companies’ proprietary customer lists and by eliminating all unnecessary data.

In addition, the Order would request a great deal of trade secret information—such as underwriting guidelines, compensation schemes, proprietary credit scoring models, and information about marketing and origination channels—that seems completely irrelevant to the ultimate question at issue: namely, the use and effect of credit-based insurance scores on the availability and affordability of homeowners insurance. The collection of this proprietary information is unnecessary to complete the Homeowners

² *The Use of Insurance Credit Scoring in Auto and Homeowners Insurance: A Report to the Governor, the Legislature and the People of Michigan*, from Frank M. Fitzgerald, Commissioner, Office of Financial and Insurance Services, dated December 2, 2002; *Report to the 79th Legislature: Use of Credit Information by Insurers in Texas*, Texas Department of Insurance, December 30, 2004; and *Supplemental Report to the 79th Legislature: Use of Credit Information by Insurers in Texas – the Multivariate Analysis*, Texas Department of Insurance, January 31, 2005.

Study and will unnecessarily expose the most sensitive business secrets of State Farm and other insurers to the risk of disclosure.

1. State Farm has demonstrated its commitment to cooperating with the FTC by providing data that is sufficient to complete the studies that the FTC has been mandated to submit to Congress.

State Farm cooperated with the FTC in allowing auto data of State Farm's that had been included in EPIC Actuaries' study of the use of credit reports in auto insurance to be used for the FTC's Auto Study.

In addition, three years ago, an insurance industry coalition, at the request, and with the input, of the FTC staff prepared a "Call for Homeowners FTC Research Database" ("Homeowners Call") for the Homeowners Study. The Homeowners Call, dated August 25, 2005, mirrored the dataset that the FTC staff used for the Auto Study. State Farm and other insurers responded to the Homeowners Call and provided data to Tillinghast Insurance Consulting ("Tillinghast"), a division of independent consulting firm Towers Perrin, expressly for the purpose of the Homeowners Study.

a. Using aggregated data would result in a study that is more reliable, and that exposes insurers and policyholders to less risk.

Not only does the FTC's Order moot all of the time, effort and expense previously invested by State Farm in cooperating with the FTC in its Homeowners Study, the method previously endorsed by FTC staff to collect homeowners industry data of individual insurers through the Homeowners Call allowed for an appropriate aggregation of the data, on an actuarially sound basis, into an industry-wide dataset. Aggregating individual company information in this manner helps to ensure that the security of personal identifying information of individual policyholders and proprietary information of individual cooperating insurers will not be jeopardized. Beyond the proprietary information concern, the release of customer application information would pose a potential information security risk and a data breach exposure we believe to be unwarranted because such individual policyholder data is not necessary to complete the mandate of Section 215 of the FACT Act. State Farm believes that using aggregated data also serves the FTC's interest in conducting an accurate and effective Homeowners Study, without assuming the costs and risks associated with the safekeeping of a great deal of very sensitive consumer data and trade secret information.

State Farm, as a member of NAMIC, has also been actively involved in the proposal to the FTC by NAMIC and two other property and casualty insurance trade associations to have homeowners insurers that are member companies voluntarily provide certain data elements previously identified by the FTC in public statements as needed for its study.³ This proposal was submitted to the FTC staff on April 8, 2008, and is attached to the NAMIC comment letter. Again, the proposal would allow for an appropriate aggregation of individual insurer data that would ensure against the potential disclosure, inadvertent or otherwise, of personal identifying information of individual policyholders and proprietary information of individual cooperating insurers. Despite State Farm having expended substantial time, effort and expense in working with the three trade associations in developing and presenting that proposal, the FTC has not formally responded to the proposal except to issue the Order for comment. The FTC has provided no explanation as to why the insurance industry trade association proposal is unacceptable or inadequate to perform the study of homeowners insurance mandated by Congress in the FACT Act.

³ As noted on page 4 of the April 8, 2008 proposal, in a letter dated September 17, 2007 to Representative Mel Watt, then FTC Chairman Majoras stated that, in order to conduct its study, the FTC would want names, addresses, social security numbers, and relevant insurance policy coverage and claims information on homeowners policies. Notably absent from this list is information related to quotes or applications for homeowners insurance and insurers' proprietary underwriting guidelines and insurance scoring models.

2. The Order is unnecessarily burdensome to insurers, and is overbroad by requesting information not relevant to the inquiry specified by FACT Act Section 215.

The FTC released its Auto Study to Congress 18 months after the deadline specified in the FACT Act, despite the fact that auto insurers voluntarily provided the FTC with aggregated industry data sufficient for the FTC to perform its study. Now the FTC is proposing to gather data from homeowners insurers that is likely to be the most onerous and far-reaching data request any homeowners insurer has ever seen.

a. The proposed data set is extraordinarily large and complex.

Although insurers are regularly subjected to market conduct and financial exams by state insurance departments, which regulate insurers' operations within the states, the FTC's proposed Order promises to be an order of magnitude more burdensome than the data calls issued in connection with studies conducted by state insurance regulators. Not only would the Order request information on a country-wide basis, as opposed to a state-wide basis, but the request is for all non-tenant homeowners insurance policy information for the three year period of 2004-2006 rather than a sampling ordinarily requested by state insurance regulators and used by the FTC in its study of auto insurance. And, as noted in the NAMIC comment letter, because the Order would request information about all policies in effect during 2004 to 2006, the actual period covered by the Order would be much longer than three years.

The Order would capture homeowners policy information on millions of policies over that three-year period and would further capture millions of transactional level changes on those policies over the three-year period. It is clear that the FTC would be collecting hundreds of millions of policy records alone. In addition, the Order would seek data related to millions of claims, millions of policyholders and millions more applications and quotes beginning January 1, 2006 until the date the Order is eventually issued. In total, the FTC might be requesting as many as half a billion lines of data.

This is an extraordinarily large and sensitive data set, which will require careful handling as well as expert editing to rationalize the data and ensure its consistency and accuracy across companies. When state insurance regulators, which of course have their own expertise in the insurance industry, gather statistical data of this sort, they typically do not attempt to collect the data from each individual insurer, but do accept aggregated data from independent statistical agents such as Independent Statistical Service Inc. ("ISS"), a subsidiary of the Property Casualty Insurers Association of America, or Insurance Services Office, Inc. ("ISO"). ISS and ISO have been specifically established to handle the millions of insurance policy records required to be reported to insurance regulators in the states. Unlike ISS and ISO, the FTC has no experience in processing or analyzing insurance company data. Consequently, it is unrealistic to expect the FTC to be able to handle the expected volume of data that it has requested, let alone provide a meaningful analysis within any reasonable time frame, especially considering that the FTC is now already more than two years past the due date established by the FACT Act to submit its report to Congress.

Based on the experience of State Farm personnel who are involved in regular and ongoing data requests by state insurance regulators, State Farm could not respond to this data request within 60 days after issuance of the Order. State Farm estimates that it would need at least six months, not 60 days, to comply with the request for policy-level data and to process the millions of transactions needed to comply with the FTC's request, while continuing to comply with the mandated reporting to state insurance regulators and without shutting down its day-to-day operations.

b. Companies responding to the Order will be put at a competitive disadvantage.

If any of the individual State Farm companies is among the nine firms identified by the FTC to receive the Order, it and the other eight insurers will be placed at a competitive disadvantage compared to the rest of the insurance industry. The State Farm company in question will have to divert personnel and resources from pending projects and incur substantial expense in order to process the enormous amount of

data requested by the Order. Projects involving legal mandates from state insurance departments and compliance with other state or federal law will obviously need to continue while State Farm works to comply with this Order. But other important business initiatives that would otherwise be a priority from a competitive standpoint but that are not legally required will have to be delayed, postponed or re-prioritized while State Farm redirects resources from those projects to comply with this Order. Depending on which of the State Farm affiliates receives the Order, projects other than homeowners insurance initiatives could be and likely will be adversely impacted by the need to put valuable and scarce personnel and other resources into responding to this Order. Other competitors not receiving this Order will experience none of the project delays or expense that State Farm will incur in responding to this Order.

In addition, those competitors will not be at risk of having their confidential trade secret customer lists, confidential trade secret insurance scoring models, or confidential trade secret underwriting guidelines disclosed publicly. Insurers that receive the Order will not only be subjected to those risks, but would be subjected to devastating competitive disadvantages if that confidential trade secret information were publicly disclosed for whatever reason.

Those competitors will also not have to pull personnel currently working on insurance scoring models off their efforts to improve and refine their models' performance, whereas State Farm's modelers who work with the confidential and proprietary trade secret insurance scoring models requested by the FTC will have to be diverted to responding to this Order rather than continuing their efforts to use these models to more effectively compete in the insurance market.

c. The industry's April 8 proposal strikes the right balance.

Allowing State Farm to provide data, not in response to the Order, but as outlined in the trade associations' April 8, 2008 proposal tracks more closely the data elements that had been provided for the FTC's Auto Study, and would therefore provide all the information required for the Homeowners Study. The production of data in this format also would result in a much more manageable process for State Farm enabling it to incorporate this project into the numerous other projects competing internally at State Farm for personnel and other resources, and a much more manageable process for the FTC.

Asking homeowners insurers to disgorge all of their proprietary policy records for a three-year period, along with the transactions on each of those policies, in addition to their applications and quotes from January 1, 2006 until the Order is issued, is not only extremely burdensome, but is punitive. Through the earlier Homeowners Call prepared by Tillinghast and through the trade associations' April 8, 2008 proposal, State Farm and others in the homeowners insurance industry have attempted to cooperate with the FTC in its Homeowners Study and voluntarily provide data for the study in a manner that would help expedite the FTC's analysis of the data for the study, and that would protect the confidentiality of policyholder data and the insurers' proprietary information. Unlike the April 8, 2008 proposal, the Order, by reason of the policy-level detail demanded of insurers, unnecessarily threatens that confidentiality and unnecessarily threatens to delay the FTC's analysis of the data needed for the study.

In addition, unlike the Auto Study, by asking for policyholder name, address, and social security number with all policy information, the FTC will be able to match the policy information with the policyholder's credit information obtained from a credit bureau, racial information obtained from the Social Security Administration, and flawed ethnicity data based not on self-reported ethnicity, but simply on the policyholder's name that was obtained by the FTC from vendors like it did for the Auto Study. Insurers do not collect or use race or ethnicity in underwriting or rating their policies and they certainly do not want the data being collected by the FTC either to be released publicly in violation of the policyholders' reasonable expectations of privacy, or to imply that insurers collect such information.

The FTC has testified that the auto insurance industry data voluntarily produced in an aggregated form for use by the FTC in conducting the Auto Study was adequate and satisfactory for purposes of submitting the required report to Congress. The FTC has testified that it stands behind its Auto Study. In addition, the Board of Governors of the Federal Reserve System has studied the use of credit scoring in credit markets under the mandate of Section 215 of the FACT Act. None of those prior studies involved a data request of the industries being studied of the magnitude of the Order to be issued to the homeowners insurance industry. The data requested by the Order is overbroad and overreaching because it requests information not necessary to conduct the Homeowners Study. No other completed study of credit mandated by Section 215 of the FACT Act involved a data request of the breadth or depth of the Order.

d. The proposed Order would request unnecessary data.

Section 215 of the FACT Act requires the FTC to study whether credit-based insurance scores are predictive of homeowners loss experience and to study any impact of credit on the availability or affordability of homeowners insurance on an industry-wide basis. The FACT Act does not direct the FTC to address these issues on a company-by-company basis, which in any event would be an investigation of individual insurers prohibited by the FTC Act and the McCarran-Ferguson Act.⁴ Seen in this light, there is no need for the FTC to obtain:

- The reasons for nonrenewal or cancellation of a policy if not related to credit;
- Policies written on secondary or vacation residences with the need to tie back those policies to a primary residence which may be written in a different state in a different affiliate;
- Policies written in a residual market or involuntary market if those are not policies that are written by the insurer but by a separate state entity based on that entity's rates;
- The method used in settling claims where unrelated to credit;
- The market value of the home or lot value of the land on which the home is built if that is not related to how the insurer might use credit;
- All the rating factors and rate manuals used by an insurer where unrelated to credit or how the insurer might use credit;
- All the endorsements and additional coverages added to the underlying policy of homeowners insurance, along with all the related premium transactions, if not related to the use of insurance scores or credit;
- All of the application and quote data if insurance scores or credit were not used by themselves to decline the risk but were only used to allow ineligible policies to become eligible or to more accurately price the risk;
- All the confidential proprietary trade secret underwriting guidelines used by an insurer to determine eligibility, even if they are not related to the use of credit;
- All the confidential proprietary trade secret insurance scoring models used by an individual insurer, even where a credit-based insurance score by itself is not used to decline, not renew or cancel a policy; and
- Descriptions of compensation plans for agents and employees where unrelated to insurance scores or credit or how the insurer uses credit.

3. The Order is ambiguous or vague in several key respects.

State Farm writes non-tenant homeowners insurance in the United States in several affiliates within the State Farm Insurance Companies. State Farm understands that the FTC intends to issue the Order to only

⁴ The FTC generally is prohibited by the McCarran-Ferguson Act from regulating the “business of insurance.” *See* 15 U.S.C. § 1012(b) (“No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, . . . unless such Act specifically relates to the business of insurance: *Provided*, That . . . the Federal Trade Commission Act, . . . shall be applicable to the business of insurance to the extent that such business is not regulated by State Law.”).

nine insurers to avoid the application of the Paperwork Reduction Act. It is unclear and ambiguous from the Order whether the FTC intends to send the Order to only one State Farm affiliate or multiple State Farm affiliates that write homeowners insurance across the United States. For purposes of the Paperwork Reduction Act, it is State Farm's understanding that subsidiaries and affiliates are counted as separate "persons." But the language of the Order implies that one company may be responding on behalf of other companies to whom the Order would not be directed. For example, the Proposed Order implies it will be sent to one firm defined as the "Company." Yet, Section 3.h of the Specifications asks for the name of the "company or entity" which wrote the policy, implying that might be different than the Company, and Section 3.j of the Specifications implies that the Company is to report on policies written through each subsidiary company. Similarly, Section 10.g. of the Specifications asks for the "name of the company or entity to which application was submitted" which would not be necessary if only the Company which receives the Order were to provide the data requested. Finally, the Definitions and instructions on Exhibit A to the Order define "You," "Your," and "the Company" as including all entities which may possess responsive material in the custody or control of the firm defined as the "Company." By anticipating sending the Order to only one State Farm affiliate to capture homeowners policy data for the several affiliates writing homeowners insurance across the United States, it appears to State Farm that more than nine insurers will be asked to respond to the Order on behalf of the homeowners insurance industry. But if in addition to State Farm, only nine companies in total are to be sent the Order, then nearly half of those would be State Farm Insurance Companies.

a. Certain requested information is not collected by State Farm.

The Specifications for Policyholder Data in Section 2 of the Order would ask for driver's license number. This number is not needed for writing homeowners insurance, and is not collected by State Farm in connection with homeowners insurance policies. While it is theoretically possible that the driver's license number of a homeowners policyholder written in one affiliate exists in an auto affiliate, tying that information together between affiliates by matching names that may not be spelled or formatted in the same manner will be difficult and time consuming for little value to the homeowners study. Similarly, prior addresses of a homeowners policyholder may theoretically exist somewhere within a homeowners or auto affiliate, but trying to match prior addresses of a homeowners policyholder across affiliates again by matching names is difficult and time consuming. In any event, tying such information together across affiliates would require multiple companies to respond to the Order, which must be taken into account by the FTC in any consideration of burden under the Paperwork Reduction Act. We also note that sharing information of this sort among affiliates may create an issue with respect to those policyholders who have directed that information not be shared among affiliates pursuant to State Farm's privacy policy and the Fair Credit Reporting Act ("FCRA"). For example, the FTC is asking for application and quote information which may include data elements that may be subject to the FCRA election.

b. The term "business channel" is not defined.

Section 3.j. of the Specifications asks for the "business channel (e.g., direct, captive agents, independent agents) through which the policy was originally/initially written" and there are other questions similarly referring to "business channel." The example given to differentiate whether a policy was written on a direct basis or through a captive or independent agent does not define what "business channel" means. Business channel could also mean through the internet or via the phone. It could mean the policy was written as a result of direct mail marketing as a method of business channel. If the FTC is only interested in knowing whether the policy was written by an agent (and if so, which kind) or on a direct basis, then the Specifications need to be more clear as to the definition of "business channel" and should not give examples of what "business channel" might or could mean without limiting its definition.

c. Other categories of information are not defined or are not relevant to the Homeowners Study.

Section 4.d. of the Specifications asks for reporting of “any other fees (e.g., policy fees) or costs to the customer associated with obtaining coverage not already included” in the premium for the policy. Insurers are subject to state-imposed surcharges or pass-through charges or taxes that are added to the amount policyholders pay, but which are not part of the premium charged by insurers, and which should be irrelevant for purposes of the FTC’s study of homeowners insurance. Similarly, an insurer may charge a fee for installment payments of premium that is not considered part of the premium, but its inclusion in the data set requested for the FTC study would unnecessarily complicate the response without any corresponding value in addressing the issues to be studied.

Section 5.e. of the Specifications calls for the limits of coverage, but many policies include an additional coverage limit if needed to replace the home in a covered loss situation. That additional coverage amount is stated separately from the limits but would add to the limits if needed. Should that amount be added on top of the coverage limits?

Section 7.e. of the Specifications asks for fire protection class which is provided by ISO. State Farm has moved away from fire protection class in many states and uses its own subzone rating system where approved for use. This factor is unrelated to credit or insurance scores and will be a factor that is different among homeowners insurers. How should State Farm’s subzone rating be reported to be consistent with other reporting insurers’ data? The same comment could be made as to territory codes which can differ dramatically across insurers writing in the same state since insurers have the freedom to create their own rating plans and rating territories for rating classifications.

For the claims data requested in Section 9 of the Specifications, one claim may have multiple causes of loss. Reporting by cause of loss will create multiple records for a single claim number but seems to be the more appropriate way to report. This should be clarified.

4. It is unclear how the FTC proposes to use the data elements requested of nine insurers to study the issues identified in Section 215 of the FACT Act as to the impact of credit or insurance scores on affordability and availability of homeowners insurance.

Homeowners insurance is a very competitive market. Insurers compete through different underwriting eligibility guidelines, through different rating plans that utilize different data elements and through different insurance scoring models containing different factors and utilizing different information from credit reports and other consumer reports, such as loss history reports. Consequently, insurers will have different information about consumers and policyholders depending on their business model. Yet without analyzing what data elements are needed for the Homeowners Study that insurers may commonly capture and retain, the FTC has drafted an Order that would ask for extremely detailed information that some carriers will have and others will not, and it has done so without the benefit of an assessment of whether the information, if provided by any insurer, will ultimately be useful. For example, State Farm does not ask for and would not be able to report the market value of the home or the lot value of the land on which the house is built as requested in Section 5.i and 5.j of the Specifications, but other insurers that consider market value of the home may be able to report such information. State Farm does not ask for and would not be able to report a policyholder’s individual/personal or family income as requested in Section 7.u of the Specifications. State Farm also does not capture and would not be able to report the millions of quotes sought by Section 10 of the Specifications that its agents would have given out over a several year period for consumers who do not apply for insurance -- one individual could get several quotes based on different coverage options, limits or deductibles from one agent or from several agents over that time period, and keeping such information would not be useful. Likewise, State Farm does not expect that each of the insurers picked by the FTC to receive the Order will have consistent practices with respect to what, if any, information is captured or kept with respect to market values or quotes. This inconsistency among industry members will reduce the quality of the data used for the Homeowners Study. And these are just a few of the data elements that will vary among insurers, in addition to the differences in insurers’ use of rating territories and the ambiguities in the Order as discussed above. The FTC should take the

time, before issuing this Order, to make it as concise and clear as possible to ensure that insurers will be able to provide quality data on a consistent basis in response to any request.

Since insurers are not being asked to produce to the FTC the actual insurance scores or credit reports or information ordered on individual policyholders, it appears the FTC is planning to order credit reports in order to recreate the insurer's score or to develop its own scores using a generic scoring model for the policies requested, while attempting to recreate how the policies were underwritten and rated by the individual insurers subject to the Order. This is not a realistic exercise for the FTC. Trying to recreate an insurer's score from its filed insurance scoring model or recreate how an insurer's policies were underwritten and rated based on the insurer's underwriting guidelines and filed rating plans would be best left to a market conduct exam by an insurance regulator knowledgeable about how insurers use data in underwriting insurance. The FTC cannot ensure that it will be able to accurately recreate an insurance score on a policy with a credit report and copy of an insurer's insurance scoring model and then accurately replicate the rating on that policy.

If the FTC would publish for review and comment how it proposes to analyze the data being requested to address the issues that Congress has asked it to study in Section 215 of the FACT Act, insurers would be able to suggest ways to streamline the data request and make it simpler and less onerous for insurers and the FTC. Clearly the Order would ask for more insurance company data than has ever before been requested by the FTC or any agency, including any state insurance department studying the use of credit in insurance. From the perspective of an insurer that has tried to cooperate by voluntarily providing data that the FTC needs to satisfy its Congressional mandate to study the use of credit in insurance, this data request goes well and far beyond what is necessary for the study. But if the FTC has a need for this detailed set of data, it should publicly justify how this massive set of data will help it address the issues it is required to study.

5. The industry routinely cooperates with regulators on studies of this sort.

Critics of the Auto Study have implied without basis that the insurers, who cooperated voluntarily for the Auto Study and have offered to cooperate voluntarily for the Homeowners Study, cannot be trusted to provide randomly selected and unbiased data for the Homeowners Study.⁵ The FTC itself, however, has vigorously defended the methodology as well as the conclusions of the Auto Study. Moreover, insurers provide policyholder data of this sort to state insurance regulators on a regular and continuing basis in connection with market conduct and financial examinations, and these regulators know that the insurance industry takes data integrity very seriously. State insurance regulators routinely permit industry participants to provide only a sample of data and only aggregated data, and there have never been any allegations of dishonesty.

Conclusion

State Farm cooperated with the FTC to successfully complete the Auto Study, and State Farm stands ready to cooperate similarly with the Homeowners Study. Accordingly, State Farm would suggest that the FTC strongly consider allowing insurers to provide homeowners data pursuant to the industry proposal of April 8, 2008. State Farm believes, however, that the FTC's Order, if issued to any of the State Farm companies, would impose an enormous and unnecessary burden on State Farm and its policyholders. State Farm requests that the FTC focus its inquiry on the issues relevant to the Congressional mandate: the use and effect of credit-based insurance scores on the availability and

⁵ See, e.g., Dissenting Statement of Commissioner Harbour at 4 (stating, with respect to the Auto Study, that "industry participants never provided the Commission with written verification of the accuracy, authenticity, or representativeness of the data. Moreover, records were stripped of identifying data, such that individual records could not be linked to specific companies. The data cannot be independently verified to determine whether any bias was introduced during the selection process.").

affordability of homeowners insurance. To conduct this study, the FTC does not need to collect data on all policyholders and policy events, and does not need to request information about trade secrets, such as underwriting guidelines, compensation tables, scoring models and marketing and origination channels. The Homeowners Study can be conducted much more effectively and accurately by using statistical sampling techniques and aggregated data to protect the confidentiality and security of individual policyholders' personal information.

Please contact Gregg R. Mecherle, Counsel, at 309-766-1130, if you have questions or need additional information.

Respectfully Submitted,

State Farm Insurance Companies

By: _____
Gregg R. Mecherle, Counsel