

**PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION**

**“KEEPING SCORE ON CREDIT SCORES:
AN OVERVIEW OF CREDIT SCORES, CREDIT REPORTS
AND THEIR IMPACT ON CONSUMERS”**

**SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES**

MARCH 24, 2010

I. Introduction

Chairman Gutierrez and members of the Subcommittee, my name is David Vladek, and I am the Director of the Bureau of Consumer Protection at the Federal Trade Commission ("Commission" or "FTC").¹ I appreciate the opportunity to appear before you today to discuss the Commission's efforts to implement the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act"), including the provisions that increase the transparency of how credit scores are used. The FACT Act required the Commission, alone and, in other cases, with other agencies

¹ While the views expressed in this statement represent the views of the Commission, my oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or any individual Commissioner.

² Pub.L. No. 108-159, 117 Stat. 1952 (Dec. 4, 2003) (codified in scattered sections of 15 U.S.C.).

³ 15 U.S.C. § 1681 et seq.

Commission's work to increase transparency of credit scores following enactment of the FACT Act.

II. Background on the FACT Act, the Fair Credit Reporting Act, and Credit Scores

The FACT Act amended the ERA, the federal law that governs the operation of the nation's consumer reporting system. The ERA regulates the practices of consumer reporting agencies ("CRAs"), furnishers (entities that provide information to CRAs), and the operation of consumer reporting

⁴ As used here, this term applies to the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System ("Federal Reserve"), Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration.

⁵ 15 U.S.C. § 1681j(a)(1)(A)-(B); 15 U.S.C. § 1681j(a)(1)(C).

⁶ Id. § 1681g(f).

⁷ Id. § 1681g(g). Credit scores are based on analyses of historical consumer credit data, which allow creditors to develop models that help them predict the risk of default of a particular consumer.

⁸ See Prepared Statement of the Federal Trade Commission, Credit Scoring, before the House Banking and Financial Services Committee Subcommittee on Financial Institutions and Consumer Credit (Sept. 21, 2000),

Final Rule: Procedures to Enhance the Accuracy and Inte

¹³ Among other things, the Agencies sought information about whether the absence of an account opening date causes credit evaluators to calculate inaccurately the length of a consumer's credit history, and the impact this may have on assessments of the consumers' creditworthiness. See Interagency Advance Notice of Proposed Rulemaking: Guidelines for Furnishes of Information to Consumer Reporting Agencies, 74 Fed. Reg. 31529 (July 1, 2009), available at <http://www.ftc.gov>.

will be able to obtain a free credit report to check the accuracy of the report. As an alternative to providing risk-based pricing notices, the rules permit creditors to provide all consumers who apply for credit with a free credit score and information about their score. Whichever method a creditor engaged in risk-based pricing chooses to employ, consume

¹⁵ Prior to the FACT Act, consumers could purchase file disclosures from CRAs, but could receive a free file disclosure only under limited circumstances. For example, section 615 of the FCRA provides that consumers denied credit or employment based upon information contained in a credit report may obtain a free file disclosure from the CRA that provided the report. 15 U.S.C. § 1681m.

¹⁶ Most requests for free annual file disclosures through the centralized source occur through the AnnualCreditReport.com website. AnnualCreditReport.com is the only federally authorized website for obtaining free annual file disclosures.

¹⁷ 16 C.F.R. 610.2(a).

Complaint for Injunctive and Other Equitable Relief, FTC v.

¹⁹ Stipulated Final Judgment and Order for Permanent Injunction, FTC v. Consumerinfo.com, Inc., No. SACV 05-801 AHS (MLGx) (C.D. Cal., Aug. 15, 2005).

Supplemental Stipulated Judgment and Order for Perm

²³ Interim Final Rule: Prohibition Against Circumventing Treatment As a Nationwide Consumer Reporting Agency, 69 Fed. Reg. 8532 (Feb. 24, 2004), available at <http://edocket.access.gpo.gov/2004/pdf/04-3978>.

- Medical Information Rule. Section 411 of the FACT Act amended the FCRA to prohibit creditors from obtaining or using medical information in determining a consumer's eligibility for credit, except as permitted by regulations to be issued by the banking agencies (but not including the FTC). The agencies issued final regulations on November 17, 2005. The Commission provided extensive written comments to the banking agencies to aid in the rulemaking proceeding.
- Nationwide Identity Theft Campaign. In 2006, the Commission launched

³⁰ Final Rule: Fair Credit Reporting Medical Information Regulations, 70 Fed. Reg. 70664 (Nov. 17, 2005), available at <http://edocket.access.gpo.gov/2005/pdf/05-22830.pdf>.

³¹ Final Rule: Affiliate Marketing Rule, 72 Fed. Reg. 61424 (Oct. 30, 2007), available at <http://edocket.access.gpo.gov/2007/pdf/E7-21348.pdf>.

³² Advance Notice of Proposed Rulemaking: Fair and Reasonable Fee For Credit Score Disclosure, 69 Fed. Reg. 64698 (Nov. 8, 2004), available at <http://edocket.access.gpo.gov/2004/pdf/04-24841.pdf>.

³³ 15 U.S.C. § 1681i(e).

complaints from the Commission's complaint database.³⁴ Under this program, the Commission refers to the CRAs consumer complaints it receives in which the consumer alleges that the CRA failed to properly resolve a dispute filed by the consumer. The CRAs are required to review the complaints, report back to the Commission on the actions taken as a result of the review, and maintain records sufficient to show compliance.

- "Red Flags" Rules. The agencies issued the final Identity Theft Red Flags and Discrepancy Rules on October 31, 2007, requiring creditors to establish reasonable procedures to identify identity theft risks, and providing guidance for users of credit reports who are notified of a discrepancy between the address in a consumer's credit file and that on a credit application.³⁵ At the request of Members of Congress, the Commission has delayed enforcement of the Rules.

³⁴ See FTC press release, "FTC Will Refer Consumer Complaints to Credit Bureaus" (Apr. 23, 2004), available at <http://www.ftc.gov/opa/2004/04/cra.htm>.

³⁵ Final Rule: Identity Theft Red Flags and Address Discrepancies Under the Fair and Accurate Credit Transactions Act of 2003, 72 Fed. Reg. 63718 (Nov. 9, 2007), available at <http://edocket.access.gpo.gov/2007/pdf/07-5453.pdf>.

³⁶ Federal Trade Commission, Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003 (Dec. 9, 2004), available at <http://www.ftc.gov/reports/facta/041209factarpt.pdf>.

³⁷ See Federal Trade Commission, Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, 18-20 (Dec. 29, 2004), available at <http://www.ftc.gov/reports/facta/041209factarpt.pdf>; Federal Trade Commission, Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003 (Dec. 9, 2004), available at <http://www.ftc.gov/reports/facta/041209factarpt.pdf>; Federal Trade Commission, Report to

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www.ftc.gov/os/2007/07/070724ta_report_cr

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insurance scores appear to have little effect as a “proxy” for membership in these groups in estimating risk associated with automobile insurance.

V. The Commission’s Efforts to Improve Transparency of Credit Scores

As noted above, the FACT Act increased the transparency of and consumers’ access to credit scores, such as by giving consumers a new right to receive their credit scores. In addition, the Commission has sought to improve the information about credit scores available to consumers so that they understand what the score means and how and by whom they are being used. First, as discussed above, the Risk-Based Pricing Rule allows creditors to provide a free credit score, along with information about that score, to all consumers instead of providing risk-based pricing notices to specific consumers. Indeed, the Rule includes a more consumer-friendly credit score disclosure that can provide “at a glance” information for consumers about their credit score. The Commission believes that rather than providing risk-based pricing notices, many entities will provide free credit score disclosures so that they do not have to conduct the analysis necessary to determine which consumers should receive a risk-based pricing notice. This will serve to further improve the availability of credit score information.

Should the Commission continue to educate c

⁴⁰ <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre24.pdf>

reports on this subject will improve transparency of information about credit scores in the insurance context.

VI. Conclusion

The FACT Act significantly increased the protections afforded to consumers in ensuring the accuracy of the information in credit reports, preventing identity theft, and improving transparency of credit scores. The Commission, along with its sister agencies, has nearly completed implementation of the FACT Act through rulemaking, studies, and other actions. The Commission will focus its efforts on interpreting and enforcing the rules issued pursuant to the FACT Act, and the agency looks forward to working with this Subcommittee on these and other consumer protection issues.