

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

December 2006

Federal Trade Commission

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Summary

The Federal Trade Commission (“FTC” or “Commission”) submits this report pursuant to Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159, 117 Stat. 1952 (“FACT Act”). The FACT Act, which was enacted on December 4, 2003, amends the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq.* (“FCRA”), and contains a number of provisions that are designed to enhance the accuracy and completeness of credit reports. Specifically, Section 319 of the FACT Act requires the Commission 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.

The study is to take place over eleven years, with the final report due to Congress in 2014 and five interim reports to be completed every two years from December 2004 onward (until December 2012). In its final report (or earlier, if advisable), the Commission will provide recommendations for legislative and administrative action that it deems appropriate.

Pursuant to this mandate, the Commission submitted the first report to Congress in December 2004¹, and this report constitutes the second interim report. In the first report, the FTC: (i) examined the history and current practices of the credit reporting industry; (ii) identified the key areas where errors in credit report data can occur; (iii) reviewed and evaluated studies conducted to date on credit report accuracy and completeness; (iv) examined possible methodologies for conducting a more reliable and comprehensive study; and (v) described a pilot study to test a potential methodology for a nationwide survey.²

The FTC engaged a contractor to conduct the pilot study outlined in the first report, and the results of the study are now available.³ By design of the study, the contractor had consumers review their credit reports together with an expert to identify potential errors. Consumers then disputed potential errors that the expert believed could have a non-trivial effect on their credit

¹ Federal Trade Commission, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003*, December 2004.

² The design of that study and a summary of related public comments were provided in two respective Federal Register Notices (FRNs). 69 FR 61675 (October 20, 2004) and 70 FR 24583 (May 10, 2005).

³ The contractor’s report on the initial pilot study is included as an Appendix to this report. The attachment presents the work- product, findings, and opinions of the contractor, which are not necessarily findings or opinions of the FTC.

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⁴ An FRN has been published regarding the FTC's plans for a follow-up pilot study. 71 FR 61776 (October 19, 2006). The notice may be found at the agency's Web site under "FACT Act" Actions at <http://www.ftc.gov/os/statutes/fcrajump.htm>

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Follow-up Pilot Study

The follow-up pilot study, which is subject to OMB clearance, will be similar in many respects to the initial pilot study because both address a consumer survey approach to assessing the accuracy of credit reports. In brief, the key modifications from the initial study are: changes in the recruitment process, measures to improve follow-up, and a larger study group.¹⁰ The overall design elements for the follow-up pilot study are the following:

(a) A study group of 120 consumers will be drawn by a randomized procedure that is screened to include adult members of households to whom credit has been extended in the form of credit cards, automobile loans, home mortgages, or other forms of installment credit. The FTC will send a letter to potential study participants describing the nature and purpose of the study, and the contractor will screen consumers through telephone interviews. Consumers who qualify and agree to participate will sign a prepared consent form giving the contractor permission to review the consumer's credit reports.

(b) In selecting the study group, the contractor may use a variety of methods for identifying and recruiting potential participants. In addition to the random selection procedure employed in the initial pilot study (which made use of telephone directories), the contractor will also request that financial institutions and lenders refer consumers to the study. When consumers apply for credit, e.g., mortgages, automobile loans, or other forms of credit, financial institutions and lenders will know (and have a permissible purpose for knowing) the consumer's credit score and certain other characteristics; consumers can then be given information about contacting the FTC's contractor if they are interesting in participating in the study. The contractor may employ further methods for securing participation, provided that the methods do not violate the permissible purposes for obtaining a consumer's credit report (FCRA §604). The contractor will consult with FTC staff regarding any recruitment procedure that is employed.

(c) The selected study group will consist of consumers having a diversity of credit scores over three broad categories: poor, fair, and good. The contractor will monitor the respective processes of recruitment so as to attain approximately equal representation of credit scores across the designated categories.

(d) The contractor will help the participants obtain their credit reports from the CRAs. Each participant will request his or her three credit reports on the same day, although different participants will generally request their reports on different days. Participants will not pay for their credit reports or credit scores.

¹⁰ A larger study group will be used as an aid for evaluating the additional design elements. The initial pilot study had 30 participants; the planned follow-up pilot study has 120.

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studies seek to assess a methodology that involves consumer review of credit reports, and both seek to ascertain the variety of information pertinent to accuracy and completeness that can be garnered. The expanded pilot study would list an array of possible outcomes for items on participant credit reports by using the following type of categories (the contractor may supply additional categories as warranted by circumstances encountered in the study):

- “disputed by consumer and deleted due to expiration of statutory [FCRA] time frame”;
- “disputed by consumer and data furnisher agrees to delete the item”;
- “disputed by consumer and data furnisher agrees to change/modify the item”;
- “disputed by consumer and data furnisher maintains the item to be correct as originally reported”;
- “item not disputed by consumer”;
- “item not present on the report”.¹¹

It is anticipated that the above categories will be useful in designing a nationwide survey of credit reports regardless of how accuracy and completeness may be defined for such a survey.

Knowing the results of the dispute process does not establish the "accuracy" of credit reports in an absolute sense. As the FTC and the Federal Reserve Board reported in August,¹² there is disagreement about the effectiveness of the dispute process in investigating alleged errors. However, a study using the dispute process appears to be the only feasible way of performing a nationwide study of credit report accuracy, in view of the enormous difficulty and cost of attempting to ascertain the ultimate accuracy regarding alleged errors. Measuring both the number of consumers who allege material errors and the ultimate disposition of their disputes should provide as complete a picture as possible of the underlying rate of errors in credit reports.

¹¹ The FTC staff recognizes the different reporting cycles of data furnishers and the voluntary basis on which information is reported to a CRA. There may be different explanations for why an anticipated item is not on a particular credit report. The item may be missing because a data furnisher did not provide the information to a certain CRA, or – due to the specific reporting cycle of the data furnisher – because it was provided at a time after the credit report was viewed by the consumer. Alternatively, the item may have been submitted to a CRA but placed in the wrong consumer’s file. The contractor will seek to determine, to the extent practicable, which of these explanations may apply. For example, at the end of the study, the contractor may contact XYZ Mortgage, give a brief explanation of the FTC’s pilot study, and inquire whether this furnisher normally reports information to Credit Bureau A; if so, then inquire about the timing of the reporting cycle. When making such inquiries, the contractor will not disclose the identities of study participants.

¹² 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 (at 19 - 21).

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Conclusion

Under Section 319 of the FACT Act, the Commission has completed an initial pilot study that uses a consumer survey approach to studying credit report accuracy. As discussed above, this initial pilot study revealed certain methodological challenges that should be addressed before proceeding with a nationwide survey. The planned design for a follow-up pilot study is intended to deal with these challenges and provide further information about whether a nationwide survey can measure credit report accuracy and completeness in a manner that is not unduly resource-intensive and would not be cost-prohibitive. When the follow-up pilot has been completed, the Commission will report to Congress the results of that pilot study, as well as the Commission's further plans for any nationwide survey of credit reports.

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APPENDIX

Contractor's Report on Initial Pilot Study