

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

**December 2008**

**Federal Trade Commission**

William E. Kovacic, Chairman  
Pamela Jones Harbour, Commissioner  
Jon Leibowitz, Commissioner  
J. Thomas Rosch, Commissioner

## Third Interim Report to Congress Under Section 319 of the FACT Act

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<sup>1</sup> The two prior reports to Congress are: Federal Trade Commission, *Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003*, December 2004; and Federal Trade Commission, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003*, December 2006. The reports may be accessed at the FTC's Web site: December 2004 Report: <http://www.f>

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<sup>3</sup>A *participant* (also called a study *case*) is a person who completed an in-depth review of their 3 credit reports with the contractor.

<sup>4</sup> In conducting the credit report review, the contractor explained the difference between a small error and one that could affect the consumer's credit standing. For example, an incorrect listing of a prior employer would not affect the consumer's credit score; still, it might be deemed important by a person



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certain outcomes as confirmed errors (as well as other possible outcomes). We recognize, however, that the dispute process may not always provide a definitive answer as to whether the consumer's information is accurate. For example, there are cases in which the consumer maintains one thing and the lender another. The methodology of the pilot studies cannot render a conclusion about such instances and leaves them unresolved. As a different example, a consumer may allege that a specific payment which was recorded as late on a credit report was not truly late, and the lender/creditor further agrees to change the information (i.e., this payment is no longer recorded as late). In this case, although one cannot say with full certainty that the original credit report was erroneous about this item, we do not know of a general cost-feasible method to assess the matter further; the methodology of the pilot studies would thus categorize this outcome as a confirmed error via the dispute process.

FTC staff's statement of the scope of work for the second pilot study strongly encouraged a variety of methods for identifying and recruiting potential participants. In addition to the random selection procedure employed in the initial pilot study (which used telephone directories to obtain addresses for direct mail) the contractor could engage financial institutions to refer consumers to the study.<sup>7</sup> The contractor used this approach and it led to beneficial results. In this pilot study, however, an under-representation of people with credit scores below 760 may have resulted in an under-representation of alleged material errors. As further explained below, in future studies we will devote special attention to ensuring that individuals with below-average credit scores are adequately represented.

#### Subject Recruitment

In line with the noted directives, the contractor engaged certain financial institutions and various methods to refer consumers to the study. Agencie

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

Reporting" (e-OSCAR) that is used by CRAs for resolving FCRA disputes. (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.)

<sup>7</sup> December 2006 Report (at 5). The contractor could experiment with various methods provided that no method would violate the permissible purposes for obtaining a consumer's credit report (FCRA §604). In all cases, consumer consent for participation was obtained before credit reports were drawn and reviewed.

<sup>8</sup> At an earlier time, membership in Navy Federal Credit Union was restricted to members of the military; today, the organization has both civilian and non-civilian membership.



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Recruitment Channel	Letters Sent	Positive Responses (percent)*	Reports Drawn and Mailed (percent)*	Finished Cases of Credit Report Reviews <sup>#</sup> (percent)*
(6) Further Random Mailing to Members of Commerce Bank	2000	48 (2.4%)	48 (2.4%)	39 (2%)
<b>Subtotals</b>	4,203	120 (2.7%)	119 (2.7%)	106 (2.4%)
(7) VITA contacts	(direct contact)	10	10	9
(8) Misc. Contacts <sup>+</sup>	(direct contact)	19	13	13
<b>Totals</b>	4,232	149 (3.5%)	142 (3.4%)	128 (3.0%)

\* Proportion of *letters sent* for indicated channel.

<sup>#</sup> Each case represents one consumer for whom 3 credit reports were reviewed, counted as *finished review* for those who determined whether or not they believed there were errors in their reports.

<sup>^</sup> Mailing directed towards those with (expected) lower than average credit scores.

<sup>+</sup> Employees of financial partners who went through the study before recommending it to their members.

#### Alleged Errors and the Filing of Disputes

The methodology of the pilot studies can garner alleged errors of a variety of types, such as: 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 (contractor’s report at 26.)

The second pilot study was comprised of 128 people who, after an in-depth review of their credit reports, identified 128 errors. The errors were categorized as follows:

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<sup>10</sup> Participants agreed to let the contractor know of the outcome of any dispute. Follow-up calls were made (repeated as necessary) for consumers who alleged material errors. If a case did not involve alleged material error(s), it was counted as “complete” whether or not the participant reported the outcome of a dispute back to the contractor. The 3 incomplete cases  
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anticipated item is not on a credit report. The it1256.3200 0.8400 1135.0000 0.8400 1p noanti


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<sup>12</sup> As noted in the contractor's report (at 9), this matter was discussed in the context of each credit report review, so that the consumer would not allege an error simply because an item appeared on one credit report but not on another.

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in which various members would likely fall. (The model used records from Navy Federal, which were not shared with the contractor.) In the second mailing from Navy Federal, twice as many invitations were sent to individuals predicted to have credit scores in the lowest quintile than were sent to individuals predicted to fall in the highest quintile, while still retaining 40% of the addressees across these two groups. This effort proved successful, as the distribution of credit scores more closely approximated national norms (see contractor's report at 19). As another effort, the contractor employed targeted recruitment from the VITA program to obtain participation from individuals more likely to have lower credit scores.

**Table IV. Allegation of Errors According to Credit Score Categories**

Score Category					

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representation (i.e., reflective of national norms) for credit reports that have below-average credit scores.

#### The Demographics of the Study

Across the 128 participants, the following characteristics were reported:

Age	Ethnicity	Co-habitation
4.7% under 25 years old	80.5% white	66.1% married
13.3% between 25 and 34	12.5% black	2.4% living with a partner
21.1% between 35 and 44	2.3% Hispanic	16.5% were never married
21.9% between 45 and		


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<sup>13</sup> *Registration Web Site for the FACTA Credit Report Accuracy Study—Privacy Impact Assessment (February 2008)*. The PIA, which is attached as Appendix II, may also be accessed at <http://ftc.gov/os/2008/02/>

## **Third Interim Report to Congress Under Section 319 of the FACT Act**

### **Attachments**

Appendix I: Privacy Disclosure Statement

Appendix II: FTC's Privacy Impact Assessment

Appendix III: Contractor's Report on Second Pilot Study