

**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 Vladeck, 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, to issue almost 30 rules, guidelines, compliance forms, notices, educational campaigns, studies, and reports. The Commission has completed all of the required rules, guidelines, forms and notices, as well as many significant studies. For example, it has completed a rulemaking to ensure that consumers have access to free annual credit reports; a rulemaking to enhance consumers’ rights to dispute errors in their credit reports; and a study on the use of credit scores in the automobile insurance industry.

This testimony first provides some background on the FACT Act² and the Fair Credit Reporting Act (“FCRA”),³ and their treatment of credit scores. Next, it discusses the Commission’s efforts to implement the FACT Act. It then summarizes the results of the study addressing the use of credit scores for automobile insurance. Finally, it summarizes the Commission’s work to increase transparency of credit scores following enactment of the FACT

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.

Act.

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

The FACT Act amended the FCRA, the federal law that governs the operation of the nation’s consumer reporting system. The FCRA regulates the practices of consumer reporting agencies (“CRAs”), furnishers (entities that provide information to CRAs), and users of credit reports (such as entities extending credit) to ensure that sensitive credit report information is used with fairness, impartiality, and respect for the consumer’s privacy. The Commission shares enforcement authority for the FCRA with the federal banking regulatory agencies (“banking agencies”),⁴ and has played a central role in interpreting and enforcing the FCRA since its inception.

The FACT Act amended the FCRA to, among other things, improve the accuracy of credit reports, enhance privacy, and prevent identity theft. For instance, the FACT Act facilitates consumers’ access to their credit reports by granting them the right to free annual reports,⁵ and gives identity theft victims a number of new remedies for eliminating fraudulent information from their reports. In addition, several FACT Act provisions are designed to improve the effectiveness of the process for consumers to dispute errors in credit reports and thus enhance the accuracy of these reports.

The FACT Act also gave consumers the right to purchase a credit score from CRAs,⁶ and

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).

required certain mortgage lenders to provide a score without charge to home loan applicants.⁷ Prior to the enactment of the FACT Act, the Commission testified before Congress about the importance of consumers having access to their credit scores and understanding what factors are considered to calculate the scores.⁸ The Commission noted that, “[w]ith sufficient knowledge about the score and what it means, consumers may use that information as a valuable shopping tool.”⁹ Subsequently, the FACT Act gave consumers a right to obtain access to their credit scores. As a result, consumers have had better access to their credit scores over the last several years.

III. Commission Actions Implementing the FACT Act

As noted above, the FACT Act assigned the Commission the responsibility, alone and in some cases with one or more other agencies, to promulgate approximately twenty implementing rules, guidelines, compliance forms, and notices, and conduct nine studies and issue reports to Congress. The Commission has completed all of the FACT Act-mandated rules, guidelines, forms, and notices and has finished many of the mandated studies.

A. Significant Rules

Among the most significant recent actions the FTC and other agencies have completed are the Furnisher Rules¹⁰ and Risk-Based Pricing Rule.¹¹ In addition, the Commission recently

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), available at <http://www.ftc.gov/os/2000/09/creditscoring.htm>.

⁹ *Id.*

¹⁰ Final Rule: Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies Under Section 312 of the Fair and Accurate Credit Transactions Act, 74

amended the Free Credit Report Rule,¹² originally issued in 2004. Each of these rules will take effect over the course of the next year.

Furnisher Rules

On July 1, 2009, the FTC and banking agencies published final rules and guidelines relating to furnishers of information to CRAs. Section 312 of the FACT Act required the agencies to promulgate: (1) coordinated rules to ensure the accuracy and integrity of information furnished to CRAs (“the Accuracy Rule”), and (2) a joint rule identifying circumstances under which furnishers must investigate a dispute in response to a consumer’s direct request (“the Direct Dispute Rule”).

The Accuracy Rule requires each furnisher to establish reasonable policies and procedures for implementing specific guidelines designed to ensure the accuracy and integrity of information furnished to CRAs. For example, the guidelines state that when furnishers report an outstanding balance on a credit account, they should also report the consumer’s credit limit. This is because the failure to include a credit limit can cause credit evaluators to inaccurately estimate how much available credit a consumer is using, which is an important factor in assessing creditworthiness. The agencies also issued an Advance Notice of Proposed Rulemaking to identify other possible information that furnishers should report, such as the date

Fed. Reg. 31484 (July 1, 2009), available at <http://www.ftc.gov/os/2009/07/R611017factafrn.pdf>.

¹¹ Final Rule: Fair Credit Reporting Risk-Based Pricing Regulations, 75 Fed. Reg. 2724 (Jan. 15, 2010), available at <http://edocket.access.gpo.gov/2010/pdf/E9-30678.pdf>.

¹² Final Rule: Free Annual File Disclosures, 75 Fed. Reg. 9726 (Mar. 3, 2010), available at <http://edocket.access.gpo.gov/2010/pdf/2010-4273.pdf>.

an account was opened.¹³

The Direct Dispute Rule requires furnishers in most cases to investigate disputes that consumers submit directly to them regarding the accuracy of information that the furnishers reported to a CRA. Previously, the law only required CRAs to resolve consumers' disputes. The final Rule allows consumers to dispute possible credit report inaccuracies not only with the CRAs, but also directly with the company that provided the information. The effective date for the Accuracy Rule and Direct Dispute Rule is July 1, 2010.

Risk-Based Pricing Rules

The FTC and Federal Reserve announced final rules on December 22, 2009, pursuant to section 311 of the FACT Act, which generally require a creditor to provide a consumer with a risk-based pricing notice when, based on information in the individual's credit report, the creditor provides credit to an individual on less favorable terms than it provides to others.¹⁴ These risk-based pricing notices supplement the adverse action provisions of the FCRA, which require CRAs to provide "adverse action notices" to consumers who are being denied credit based on information in their credit report. Consumers who receive a risk-based pricing notice 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

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 Furnishers of Information to Consumer Reporting Agencies, 74 Fed. Reg. 31529 (July 1, 2009), *available at* <http://www.ftc.gov/os/2009/07/R611017factaanpr.pdf>. The agencies received 18 comments in response and are reviewing the comments to determine whether to issue a notice of proposed rulemaking.

¹⁴ Final Rule: Fair Credit Reporting Risk-Based Pricing Regulations, 75 Fed. Reg. 2724 (Jan. 15, 2010), *available at* <http://edocket.access.gpo.gov/2010/pdf/E9-30678.pdf>.

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, consumers who receive credit on less favorable terms due to information in their credit report will receive education about credit reports and will be informed of their right to request a copy of their reports to check their accuracy. The rules become effective on January 1, 2011.

Free Credit Report Rule

Pursuant to the FACT Act, the Commission originally promulgated the Free Credit Report Rule specifying the procedures for consumers to obtain free annual file disclosures (also known as free credit reports) from nationwide CRAs and nationwide specialty CRAs in 2004.¹⁵ The Rule required that the nationwide CRAs jointly establish and operate a centralized source from which consumers can obtain free annual credit reports through a single dedicated Internet website (AnnualCreditReport.com),¹⁶ a toll-free telephone number, and a postal address.¹⁷ The purpose of the Rule was to enable consumers to detect and dispute inaccurate or incomplete information in the files of nationwide CRAs by providing consumers with the opportunity to obtain annual credit reports free of charge.

Since issuance of the Free Credit Report Rule, there has been a proliferation of confusing advertising regarding where consumers can obtain their free annual credit reports. Some

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).

nationwide CRAs and others have advertised “free credit reports” in connection with the consumer’s purchase of certain products and services, such as credit scores and credit monitoring. Although some advertising predated the original Rule, the bulk of the advertising for “free credit reports” now takes advantage of consumers’ general knowledge that free annual credit reports are available under federal law. These advertisements direct consumers not to AnnualCreditReport.com, the only authorized source for free annual credit reports, but to commercial websites operated by nationwide CRAs or others that sell a variety of products and services. The Commission has sought to address this confusion through enforcement actions, education, and most recently, an amendment to the Free Credit Report Rule that requires specific disclosures on all commercial offers of free credit reports.

On the enforcement front, in 2005, the Commission filed an action against Consumerinfo.com, Inc., a marketer of “free credit reports.”¹⁸ In that action, the Commission alleged that Consumerinfo.com, Inc. engaged in deceptive acts or practices in violation of section 5 of the FTC Act. These deceptive practices included failing to disclose or to disclose adequately that the “free” annual credit reports they were offering were not associated with the federally mandated annual free credit report program, but rather were part of a commercial promotion. The company entered into a settlement with the FTC that required Consumerinfo.com, Inc., to pay consumer redress, prohibited it from making deceptive and misleading claims about “free” credit reports, and required disclosure of the terms and

¹⁸ Complaint for Injunctive and Other Equitable Relief, FTC v. Consumerinfo.com, Inc., No. SACV05-801 AHS (MLGx) (C.D. Cal. Aug. 15, 2005).

conditions of any “free” offers.¹⁹ The defendant also agreed to forgo \$950,000 in ill-gotten gains. Two years later, the Commission entered into a second order with Consumerinfo.com, Inc., settling allegations that it violated the 2005 order and requiring an additional \$300,000 for consumer redress.²⁰

The Commission also has made extensive outreach efforts to educate consumers about their right to a free credit report through the authorized source. When the free annual credit report program initially took effect in 2004, the FTC issued press advisories and radio public service announcements informing consumers of their new rights, and published a “how to” guide on ordering the federally-mandated free reports.²¹ The Commission also has issued public warnings about “imposter” sites that pose as the official free report site, AnnualCreditReport.com.²² In addition, the FTC has created videos that highlight the differences between AnnualCreditReport.com and other sites that claim to provide “free” credit reports.

Despite these enforcement and other consumer outreach efforts, consumers continue to be misled and confused about where to obtain the free annual file disclosure mandated by federal law. Recognizing this confusion, section 205 of the Credit CARD Act of 2009 required the

¹⁹ Stipulated Final Judgment and Order for Permanent Injunction, FTC v. Consumerinfo.com, Inc., No. SACV05-801 AHS (MLGx) (C.D. Cal., Aug. 15, 2005).

²⁰ Supplemental Stipulated Judgment and Order for Permanent Injunction and Monetary Relief, FTC v. Consumerinfo.com, Inc., No. SACV05-801 AHS (MLGx) (C.D. Cal., Jan. 8, 2007) (prohibiting defendant from failing to make required disclosures mandated by the 2005 order and requiring \$300,000 payment for consumer redress).

²¹ See <http://www.ftc.gov/bcp/online/pubs/credit/freereports.shtm>.

²² See <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt156.shtm>; <http://www.ftc.gov/bcp/online/pubs/alerts/fakealrt.shtm>; <http://www.ftc.gov/opa/2009/03/freecredit.shtm>.

Commission to issue a rule to prevent deceptive marketing of “free” credit reports. On February 22, 2010, the Commission published an amended Free Credit Report Rule. To dispel consumer confusion, the amended Rule requires advertisements for “free” credit reports to include certain prominent disclosures to make clear that these “free” offers are not the federally mandated free file disclosure available through the centralized source. The final rule also requires nationwide CRAs to delay advertising for other products and services through the centralized source until after consumers have received their free annual credit report, and prohibits other practices that may interfere with a consumer’s ability to obtain a free annual file disclosure. This final rule becomes effective on April 2, 2010, except for the wording of the disclosures for television and radio advertisements, for which the effective date is September 1, 2010.

B. Additional Rules, Guides, Forms, and Notices

In the past few years, the Commission has also completed a number of other significant tasks in implementing the FACT Act. The following list highlights those accomplishments.

- *“Circumvention” Rule.* Pursuant to section 211(b) of the FACT Act, on February 24, 2004, the Commission published a rule that barred nationwide CRAs from reorganizing or taking other steps to avoid fulfilling their duties to provide free credit reports.²³
- *“Identity Theft” Rules and Summary.* On November 3, 2004, the Commission defined the terms “identity theft” and “identity theft report” for the purposes of various identity theft-related provisions of the Act, pursuant to section 111 of the FACT Act.²⁴ In addition, the Commission established by rule the duration of active duty alerts available to members of the armed services and defined what constitutes “appropriate proof of identity” for certain purposes, as required by section 112. The Commission also published a model form that CRAs must provide to identity

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.pdf>.

²⁴ Final Rule: Related Identity Theft Definitions, Duration of Active Duty Alerts, and Appropriate Proof of Identity Under the Fair Credit Reporting Act, 69 Fed. Reg. 63922 (Nov. 3, 2004), *available at* <http://edocket.access.gpo.gov/2004/pdf/04-24589.pdf>.

theft victims, summarizing victims' FCRA rights.

- *“Records Disposal” Rule.* Pursuant to section 216 of the FACT Act, on November 24, 2004, the Commission and other agencies published coordinated final rules requiring proper disposal of credit report information.²⁵ These rules require entities to take reasonable measures to dispose of covered information in a manner that reduces the risk of identity theft.
- *“Summary and Notices.”* Pursuant to section 211 of the FACT Act, on November 30, 2004, the Commission published standard notices that CRAs must give to consumers when providing them with their credit reports, summarizing consumers' rights under the FCRA.²⁶ The Commission also issued notices that CRAs must provide to information furnishers and credit report users summarizing their FCRA duties. These notices are revisions to notices previously prescribed by the Commission in 1997.²⁷
- *“Prescreen Opt-Out Notice” Rule.* Section 213(a) of the FACT Act directed the Commission, in consultation with the banking agencies, to prescribe a simple and easy-to-understand notice that creditors and insurers must include in written “prescreened” offers. On January 31, 2005, the Commission published such a notice, which informs consumers of their right to opt out of prescreened offers and explains how to do so.²⁸
- *“Identity Theft Forms and Procedures” Guidance.* On April 27, 2005, the Commission published guidance to implement section 153 of the FACT Act.²⁹ Section 153 directed the Commission, in consultation with the banking agencies, to develop a model form for identity theft victims to use to contact creditors and CRAs.
- *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

²⁵ Final Rule: Disposal of Consumer Report Information and Credit, 69 Fed. Reg. 68690 (Nov. 24, 2004), available at <http://www.ftc.gov/os/2004/11/041118disposalfrn.pdf>.

²⁶ Final Rule: Summaries of Rights and Notices of Duties Under the Fair Credit Reporting Act, 69 Fed. Reg. 69776 (Nov. 30, 2004), available at <http://edocket.access.gpo.gov/2004/pdf/04-26240.pdf>.

²⁷ Section 211(c) of the FACT Act specifically required the Commission to revise the consumer summary form. The Act did not require revision of the furnisher or user notices, but various changes to the FCRA introduced by the FACT Act rendered the existing forms obsolete. The Commission is planning to seek public comment on proposed further revisions to the notices, to reflect additional changes in the rights of consumers and obligations of CRAs and furnishers, created by several new FACT Act rules issued within the past year.

²⁸ Final Rule: Prescreen Opt-Out Disclosure, 70 Fed. Reg. 5022 (Jan. 31, 2005), available at <http://edocket.access.gpo.gov/2005/pdf/05-1678.pdf>.

²⁹ Notice of Federal Trade Commission Publication, 70 Fed. Reg. 21792 (Apr. 27, 2005), available at <http://edocket.access.gpo.gov/2005/pdf/05-8376.pdf>.

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, 2005.³⁰ 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 a nationwide identity theft consumer education program mandated by the FACT Act, centered around the themes “Deter, Detect, and Defend.” This campaign includes information about how victims can mitigate the damage caused by identity theft should it occur.

- *“Affiliate Marketing” Rule.* Section 214 of the FACT Act requires the FTC, the banking agencies, and other agencies to promulgate coordinated rules to provide consumers with notice and a right to opt out of affiliates’ use of certain personal information for marketing purposes. The agencies issued a final rule on October 30, 2007.³¹

- *Credit Score Fee Determination.* Section 212(b) of the FACT Act requires the Commission to determine a “fair and reasonable” fee that CRAs may charge for a credit score. On November 3, 2004, the Commission published an Advanced Notice of Proposed Rulemaking seeking public comment on various approaches to determining the fee.³² The Commission is continuing to monitor the credit score market to ensure that the market remains vigorous and competitive.

- *Complaint Sharing Program.* Section 313(a) of the FACT Act directed the Commission to establish a complaint sharing program, either voluntarily or by regulation, with the nationwide CRAs.³³ In early 2004, the Commission staff reached agreements with each of the three nationwide CRAs on the operation of the complaint referral program. Beginning in April 2004, Commission staff began forwarding to the CRAs on a monthly basis relevant consumer 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,

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).

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>.

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 Rule until June 1, 2010.

C. Studies and Reports

The Commission, alone or with one or more other agencies, has completed multiple FACT Act-mandated studies and transmitted reports to Congress. In addition, the Commission has ongoing study obligations, requiring periodic reports over several years, and certain studies that are still in progress.

- *Accuracy Studies.* On December 9, 2004, the Commission submitted a report to Congress on the accuracy of credit reports, as required by section 318 of the FACT Act.³⁶ In addition, section 319 of the FACT Act requires the Commission to undertake an ongoing study of the accuracy and completeness of information contained in credit reports. The Commission has, to date, released three interim reports, in December 2004, December 2006, and December 2008.³⁷ These reports discussed previous research in the area and the Commission’s efforts to develop and test an effective methodology for studying credit report accuracy at the national level. As described in the 2008 report, the Commission believes it has developed an effective methodology; we expect that the study will be in progress in late Spring of this year. The upcoming December 2010 interim Report to Congress will highlight the goals and methodology of the national study.

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 Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003* (Dec. 23, 2008), available at <http://www.ftc.gov/os/2008/12/P044804factarptcongress.pdf>.

- *Dispute Study*. Section 313(b) of the FACT Act required the Commission and the Federal Reserve to conduct a study of the extent to which CRAs and furnishers are complying with the consumer dispute provisions of the FCRA. The agencies issued the report on the study on August 9, 2006.³⁸ The report included a detailed discussion of the responsibilities of CRAs and furnishers in the dispute process. The report also described concerns voiced by some commenters about the quality of the CRAs' and furnishers' investigations. The report did not recommend additional administrative or legislative action, but rather that the FACT Act provisions intended to improve the dispute process be given time to take effect. The Commission and the Federal Reserve Board will continue to monitor the performance of the dispute process, especially after July 1, 2010 when the Furnisher Rules' dispute-related provisions take effect, and explore possible improvements to the system.

- *Affiliate-Sharing Study*. Section 214 of the FACT Act requires the Commission and the banking agencies to conduct an ongoing study of the affiliate-sharing practices of financial institutions and other creditors or users of credit reports. To date, the Agencies have received results of the study and are working on a drafting a joint report.

- *Credit-Based Insurance Score Studies*. Section 215 of the FACT Act requires the Commission, along with the Federal Reserve, to study the use of credit scores and credit-based insurance scores in consumer credit and automobile and homeowners insurance markets. The results of the automobile insurance study are summarized below. The Commission is currently working on a follow-on report with an analysis of the effects of credit-based insurance scores used for homeowner's insurance. This report will use extensive insurance policy data collected through the use of compulsory process from the nine largest insurance firms, who together make up more than half of the homeowners insurance market.

IV. Credit-Based Automobile Insurance Score Study

The FTC's automobile insurance study used data that a consortium of insurance firms voluntarily submitted to the agency. Specifically, the FTC staff obtained, through a third-party actuarial firm, automobile insurance policy data for five firms representing 27 percent of the United States automobile insurance market in 2000. Commission staff supplemented and confirmed this data with information it obtained from a variety of other public and private

³⁸ Federal Trade Commission & Board of Governors of the Federal Reserve System, *Report to Congress on the Fair Credit Reporting Act Dispute Process* (Aug. 9, 2006) ("Dispute Study"), available <http://www.ftc.gov/os/comments/fcradispute/P044808fcradisputeprocessreporttocongress.pdf>.

sources. FTC staff then conducted an econometric analysis of this data.

In July 2007, the Commission issued a report describing the results of its automobile insurance study.³⁹ In the report, the FTC made a number of findings. First, the Commission found that insurance companies are increasingly using credit-based insurance scores in making decisions as to coverage and premiums. Second, it found that credit-based insurance scores are effective predictors of risk measured by the number and total cost of claims policyholders will file. Third, the FTC found that credit-based insurance scores are distributed differently among racial and ethnic groups, and therefore likely have an effect on the insurance premiums that these groups pay, on average, with non-Hispanic white and Asian-American consumers paying less and African-American and Hispanic consumers paying more. Finally, it found that credit-based 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

³⁹ Federal Trade Commission, *Report to Congress on Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance* (Jul. 24, 2007), available at http://www.ftc.gov/os/2007/07/P044804FACTA_Report_Credit-Based_Insurance_Scores.pdf. Commissioner Pamela Jones Harbour dissented from this report because she disagreed with the methodology used to generate it. In her view, the data collection and analysis fell short of the Commission’s gold standard for rigor and completeness, and did not reflect the agency’s best practices. Commissioner Harbour’s distrust of the integrity of the underlying data set upon which the study was based caused her to doubt the reliability of any conclusions drawn by the report. *See* Dissenting Statement of Commissioner Pamela Jones Harbour, available at http://www.ftc.gov/os/2007/07/P044804_facta_dissenting_harbour.pdf.

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 model consumer-friendly credit score disclosure that can provide “at a glance” information for consumers about their credit scores. 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.

Second, the Commission continues to educate consumers about the role and impact of credit scoring in credit and insurance determinations. Our publication, *Need Credit or Insurance? Your Credit Score Helps Determine What You’ll Pay*⁴⁰, explains how credit scoring works and how it is used by lenders and insurance companies.

Finally, as the Subcommittee is aware, Commission has been engaged in ongoing research about the impact of credit-based insurance scores. The Commission expects that its 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 the FACT Act through rulemakings, studies, and other actions. The

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

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.