

**PLACE:** 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

**STATUS:** A portion of the meeting will be in Open Session and the remainder of the meeting will be in Closed Session.

**MATTERS TO BE CONSIDERED:**

**Open Session**

1. Discussion of Court of Appeals Mandate in Landstar.
2. Briefing on Conclusion of FY 2009 Budget.

**Closed Session**

1. World Chance Logistics (Hong Kong).
2. Lindblad Expeditions, Inc.—Evidence of Financial Responsibility.
3. Staff Briefing Regarding Global Economic Downturn and Potential Impact on Stakeholders.

**CONTACT PERSON FOR MORE**

**INFORMATION:** Karen V. Gregory, Secretary, (202) 523-5725.

**Karen V. Gregory,**

*Secretary.*

[FR Doc. E9-25065 Filed 10-14-09; 4:15 pm]

**BILLING CODE P**

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**FEDERAL TRADE COMMISSION**

**Agency Information Collection Activities; Submission for OMB Review and Reinstatement of Existing Collection; Comment Request**

**AGENCY:** Federal Trade Commission (“FTC” or “Commission”).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FTC plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). This study is a follow-up to the Commission’s two previous pilot studies that were undertaken to evaluate a potential design for a national study.<sup>1</sup> This is the second of two notices required under the Paperwork Reduction Act (“PRA”), and the Commission seeks additional public comments on its proposed national study before requesting Office of Management and Budget (“OMB”) review of, and clearance for, the

<sup>1</sup> Reports to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2006 and 2008. The reports may be accessed at the FTC’s Web site. December 2006 Report: ([http://www.ftc.gov/reports/FACTACT/FACT\\_Act\\_Report\\_2006.pdf](http://www.ftc.gov/reports/FACTACT/FACT_Act_Report_2006.pdf)); December 2008 Report: (<http://www.ftc.gov/opa/2008/12/factreport.shtm>).

collection of information discussed herein.

**DATES:** Comments must be received on or before November 16, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form, by following the instructions in the Request for Comments to 30-Day Notice part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following Web link: (<https://secure.commentworks.com/ftc/FACTA319studypra2>) (and following the instructions on the web-based form). Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY SECTION** below.

**FOR FURTHER INFORMATION CONTACT:**

Peter Vander Nat, Economist, (202) 326-3518, Federal Trade Commission, Bureau of Economics.

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. “Collection of information” means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

On July 20, 2009, the FTC sought comment on the information collection requirements associated with the proposed national study.<sup>2</sup> As discussed below under (II)(D) - Summary of and Response to Public Comments to 60-Day Notice, three comments were received (*see* (<http://www.ftc.gov/os/comments/facta319study/index.shtm>) for text of the comments). Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, the FTC is providing this second opportunity for public comment while seeking OMB approval to reinstate the clearance for the proposed national study, which is a follow-up to the FTC’s two prior pilot studies (OMB Control No. 3084-0133) that were undertaken to evaluate a potential design for a national study. All comments should be filed as prescribed in the **ADDRESSES** section above and in the Request for Comments to 30-Day Notice (found below at II.E.), and must be received on or before November 16, 2009.

<sup>2</sup> 74 FR 35191.

**I. Background**

Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act” or the “Act”), Pub. L. 108-159 (2003) requires the FTC to study the accuracy and completeness of information in consumers’ credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of eleven years. The first report was submitted to Congress in December 2004.<sup>3</sup> The second report was submitted to Congress in December 2006 (“December 2006 Report”), describing the results of a pilot study. The third report was submitted in December 2008 (“December 2008 Report”), describing the results of a second pilot study.

In July 2005, OMB approved the FTC’s request to conduct a pilot study to evaluate the feasibility of a methodology that involves direct review by consumers of the information in their credit reports (OMB Control Number 3084-0133),<sup>4</sup> and the FTC conducted that pilot study in 2005-2006. As explained in the December 2006 report, FTC staff concluded that it was necessary to conduct a second pilot study to evaluate additional design elements prior to carrying out a nationwide survey. Upon receiving further OMB approval (reinstatement of Control No. 3084-0133), the FTC conducted the second pilot study in 2007-2008. The FTC’s pilot studies used small samples and did not rely on the selection of a nationally representative sample of credit reports; accordingly, no statistical projections were made. The FTC now plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. 108-159 (2003). This study is a follow-up to the Commission’s two previous pilot studies.

**A. Initial Pilot Study (2005-2006)**

The goal of the initial pilot study was to assess the feasibility of directly engaging consumers in an in-depth review of their credit reports for the purpose of identifying alleged material errors and channeling such errors through the Fair Credit Report Act

<sup>3</sup> Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2004. The December 2004 Report is available at (<http://www.ftc.gov/reports/index.htm#2004>).

<sup>4</sup> See 70 FR 24583 (May 10, 2005) for discussion of the initial pilot study and related public comments.

("FCRA") dispute resolution process. The FTC's contractor for the initial pilot study – a research team comprised of members from the Center for Business and Industrial Studies (University of Missouri-St Louis), Georgetown University Credit Research Center, and the Fair Isaac Corporation – engaged 30 randomly selected participants in an in-depth review of their credit reports. Study participants obtained their credit reports and credit scores<sup>5</sup> from each of the three nationwide consumer reporting agencies (Equifax, Experian, TransUnion – hereinafter, the "CRAs"). The contractor reviewed these credit reports with the participants and after an evaluation of alleged errors for materiality by the research team, consumers were asked to channel disputed information through the FCRA dispute resolution process.<sup>6</sup>

The first pilot study demonstrated the general feasibility of the consumer interview methodology, but also revealed several challenges for a national study.<sup>7</sup> Challenges include identifying methods for achieving a more representative sampling frame, increasing the response rates, and easing the burden of completing the study. Compared to the national average for credit scores, consumers with relatively low scores were under-represented. Also, the majority of participants who alleged errors on their credit reports and indicated that they would file a dispute did not follow through with their stated

intention to file. In consideration of these and other matters, the FTC conducted a follow-up pilot study.

#### B. The Second Pilot Study (2007-2008)

The second pilot study combined successful elements from the first pilot with new procedures designed to overcome shortcomings of the first pilot.

Through a variety of recruitment channels, 4,232 people were invited to participate. Multiple recruitment methods were employed and these were useful in identifying differences in response rates and credit scores of the respondents across various methods of recruitment. Of the 4,232 individuals contacted, 128 (3%) became participants. The contractor<sup>8</sup> helped participants obtain their 3 credit reports and conducted an in-depth review of the reports with each participant. The contractor also helped the participants to identify alleged inaccuracies and gave advice on the difference between a small inaccuracy and a material error that is likely to affect a credit score. Specific criteria for materiality were developed in consultation with Fair Isaac's analyst on the research team.<sup>9</sup> If the consumer alleged a material error, the individual was encouraged to file a formal FCRA dispute so as to obtain a review of the challenged items by data furnishers and CRAs. The contractor prepared a dispute letter for any consumer who wanted to file and allege an error, material or not (as the FCRA permits a consumer to dispute any credit report information that the person believes to be inaccurate).

Regarding the results of the study, 88 of the 128 participants (69%) found no errors in their credit reports. Of the 40 participants who alleged one or more errors that they wanted to dispute, 15

(or 12% of the 128) alleged a material error. For 7 of these latter cases, the FCRA dispute process rendered credit report changes that were made fully in keeping with all of the consumer's allegations.<sup>10</sup>

As noted above, the second pilot study (like the first) used a small sample and no statistical projections were made. Accordingly, no extensive statistical summaries were needed, nor were any given, in the FTC's report on the study. The primary purpose of the pilot studies was to refine the expert-assisted survey approach for studying credit report information, in preparation for a national study.

The second pilot study confirmed the importance of having the contractor prepare dispute letters for consumers. This was not done in the first pilot study. In the first pilot study, only 1 of the 3 participants who alleged material errors on their credit reports filed a dispute. In the follow-up pilot study, all 15 of the participants who alleged material errors on their credit reports received dispute letters from the contractor, and the outcomes of these disputes are known for 12 of them. This is a significant improvement over the first pilot study.

As noted above, multiple recruitment methods were used to identify differences in response rates and in credit scores of respondents across various methods of recruitment. The second pilot study confirmed the difficulties of obtaining adequate numbers of participants with below-average credit scores. Purely random sampling of potential participants yielded too few actual participants with low credit scores.<sup>11</sup> A weighted random sampling approach, whereby more invitations were extended to groups of consumers who were likely to have lower credit scores, produced a sample closer to national norms.<sup>12</sup>

The second pilot study indicated that it would be feasible to base a measure of the accuracy of credit report information on confirmed material errors via the FCRA dispute process. Whenever it appeared that a consumer's credit score could be affected by "correcting" an alleged material error, the contractor marked the credit reports (the *frozen files*)<sup>13</sup> with explanations of

<sup>5</sup> A credit score is a numerical summary of the information in a credit report and is designed to be predictive of the risk of default. Credit scores are created by proprietary formulas that render the following result: the higher the credit score, the lower the risk of default. The contractor in the first and second pilot studies employed (and the proposed national study expects to employ) a score that is commonly used in credit reporting, namely a FICO score.

<sup>6</sup> The FCRA dispute resolution process involves the review of disputed items by data furnishers and CRAs. The formal dispute process renders a specific outcome for each alleged error. By direct instruction of the data furnisher, the following outcomes may occur: delete the item, change or modify the item (specifying the change), or maintain the item as originally reported. A CRA may also delete a disputed item due to expiration of the statutory time frame (the FCRA limits the process to 30 days, but the time may be extended to 45 days if a consumer submits relevant information during the 30-day period). These possible actions are tracked by a form called "Online Solution for Complete and Accurate Reporting" (e-OSCAR) that is used by CRAs for resolving FCRA disputes. A consumer may also dispute information directly with a data furnisher, as provided for by FCRA 623(a)(8). 15 U.S.C.1681s-2(a)(8). (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. The report is available at (<http://www.ftc.gov/reports/index.htm#2006>).

<sup>7</sup> The FTC's December 2006 Report to Congress contains a more detailed review of the study and its results.

<sup>8</sup> Due to the similarity in design (*i.e.*, second pilot was constructed as a follow-up to first) the FTC employed the same contractor.

<sup>9</sup> December 2008 Report (at 3). The contractor used the following criteria for materiality: the consumer had a credit score less than 760 (a cutoff widely used to identify consumers with lowest credit risk and for extending credit on most favorable terms) AND the consumer alleged an error regarding any of the following matters: (i) negative items (such as late payments); (ii) public derogatories (such as bankruptcy); (iii) accounts sent to collection; (iv) number of inquiries for new credit; (v) outstanding balances not attributable to normal monthly reporting variation; (vi) accounts on the report not belonging to the person who is the subject of the report; or (vii) duplicate entries of the same information (*e.g.*, late payments or outstanding obligations) that were double-counted in the reported summaries of such items. To enhance the efficiency of the study process, the stated criteria modify somewhat the procedure used in the first pilot study (contractor's report on second pilot study at 27). In the proposed national study, we do not intend to use any cutoff score for materiality, but plan to retain the stated categories as indicating a dispute material to creditworthiness.

<sup>10</sup> Other cases (*i.e.*, some of the consumer's allegations were confirmed while other allegations were denied) are summarized in the December 2008 Report (at 2 & 8).

<sup>11</sup> Table III of the December 2008 Report (at 9).

<sup>12</sup> Table 9 of the contractor's report (appendix to the December 2008 Report).

<sup>13</sup> The files are called "frozen" because no new credit information was added to the consumer's original credit reports obtained in the study; any

the discrepancies and sent copies of the marked reports to Fair Isaac for rescoring. If, via the FCRA dispute process, changes were subsequently made by CRAs and lenders in keeping with the consumer's allegations, these changed items were then designated as *confirmed material errors*. The frozen file would then be re-scored to quantify the impact of the confirmed error(s) on the consumer's credit score. The difference between the rescore of the frozen file and the original score would be a meaningful measure of the impact of inaccurate credit report information. We intend to use this type of methodology in a national study.<sup>14</sup>

As a final point of this summary of the pilot studies, the relatively low response rate (*i.e.*, approximately 3% of the individuals contacted became participants) raises concern for the design of a national study regarding a potential response bias. This matter is addressed below.

## II. Proposed National Study

### A. Description of the Collection of Information and the Proposed Use

The proposed national study seeks to use a large representative sample of credit reports so that we may draw inferences, up to a certain level of statistical confidence, about the accuracy of credit reports in general. The need to employ a representative sample makes the initial steps of the proposed study different from the methodology of the second pilot study; in other respects, the methodologies of the two studies are largely the same. Our goal is to obtain approximately 1,000 participants who as a group display a diversity on credit scores and on major demographic characteristics in line with national norms.

The relevant population for the study is comprised of adult members of households who have credit histories with Equifax, Experian, and/or TransUnion. To study these credit histories we propose, as a first step, to obtain a very large random sample (with an order of magnitude of 200,000 names) from one of the consumer reporting agencies in order to determine a set of individuals *selected for possible*

rescoring would thus apply only to potential changes or actual changes that were directly related to the contractor's review.

<sup>14</sup> Certain limitations regarding this methodology are discussed in the December 2008 Report (at 3 & 4). Yet, use of the FCRA dispute process appears to be the only feasible way of performing a nationwide survey, in view of the enormous difficulty and cost of attempting to ascertain the ultimate accuracy regarding alleged errors.

*contact* (the "SPC list").<sup>15</sup> From this SPC list, FTC staff will draw a further and considerably smaller random sample (*e.g.*, 10% sample) of individuals *selected for contact* (the "SC list").

There are several reasons for this two-step process. First, the vast majority of the names on the SPC list will not be sent invitations to participate and thus helps ensure that no CRA will know who is participating in the study. Further, using the SC list, we plan to send proportionally more invitation letters to individuals with lower credit scores. Use of this weighted random sampling approach is designed to obtain an ultimate set of participants having credit scores (specifically, the lower scores) in line with national norms, as suggested by the results of the second pilot study.<sup>16</sup>

After some substantial set of individuals have agreed to join the study (300 - 400 people), we will have an *initial sample*. This sample will be compared with the larger SPC list on credit scores and geographic diversity. Statistically significant differences between this initial sample and the larger SPC list would reflect the impact of non-participation. From this information, we can selectively draw individuals from the SC list in an effort to compensate for these differences as necessary.

As a further check on a potential bias in the decision to participate, we plan to obtain anonymized (redacted) credit reports (and related credit scores)<sup>17</sup> for *the entire class of non-respondents, i.e.*, all the people from the SC list who choose not to participate. Using the redacted reports and related scores we can determine, for example, whether non-respondents had significantly different credit scores or significantly

<sup>15</sup> The information in this sample, which would include names, addresses, and credit scores, is to be obtained under applicable law and protected from disclosure by, *e.g.*, Exemption 6 of the Freedom of Information Act, 5 U.S.C. 552. That information, as well as any credit reports that individual participants give permission to be analyzed for the study, will be maintained and used by the FTC and its contractors subject to appropriate information security procedures and safeguards (*e.g.*, maintaining credit-related data separately from personal identifying information, requiring the FTC's contractors to execute confidentiality agreements, and limiting access to those FTC and contractor staff who have a need to work with the data). As noted above, the study methodology is also designed to prevent disclosure of any individual's participation in the study to any credit reporting agency.

<sup>16</sup> December 2008 Report (at 9 & 10).

<sup>17</sup> These credit reports and scores will be generated and maintained without name, address or personal identifiers other than ID numbers assigned by the study.

different credit histories from those who agreed to participate.

Upon completion of the study, we will have a database with detailed demographic information about the participants, the type and quantity of alleged material errors on their credit reports, the type and quantity of confirmed material errors via the FCRA dispute process, and the impact of any such confirmed errors on the participants' credit scores.<sup>18</sup> Further, by analyzing the redacted credit reports and related scores of the non-respondents, we obtain a final check on the degree to which the enhanced procedures were effective in achieving a nationally representative sample of credit reports.

### B. Estimated Hours Burden

Consumer participation in the proposed national study would involve an initial preparation for the in-depth interview and time spent by participants to understand, review, and if deemed necessary, dispute information in their credit reports. Invitation letters will be sent in progressive waves in order to obtain approximately 1,000 participants. The individuals who receive these letters are drawn from the SC list discussed above and will be asked to go directly to a designated Web site for enrollment if they wish to participate; registration is expected to take at most 15 minutes per participant.<sup>19</sup> The registration process thus comes to approximately 250 hours (reckoned at 1/4 hour for each of 1,000 consumers).

For the purpose of calculating burden under the PRA regarding the review process of the credit reports, FTC staff

<sup>18</sup> Using the methodology of the pilot studies, we expect to obtain a variety of alleged errors: 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. For these same categories we can also tabulate confirmed material errors via the FCRA dispute process. As explained above, the rescoring of the frozen files will then provide the impact of any confirmed errors on the participants' credit scores.

<sup>19</sup> At the registration Web site, a person may take the time to read several disclosures, including a privacy disclosure and an outline of the various steps of the study that every participant agrees to undertake. The consumer is then asked to enter basic contact information (*e.g.*, name, address, telephone number, best time to be contacted further about the study) and to enter an electronic signature certifying the consumer's consent to participate in the study. For those who may not have Internet access to register, the contractor would also have a procedure to mail the appropriate disclosures and study steps to the respondent and then receive back enrollment information and the consumer's signed consent in paper form.

submits the following estimates that are based on the contractor's experience with the second pilot study. Some participants prepare thoroughly in advance of the in-depth interview of their credit reports. In such situations, even complicated reports may generally be finished under 30 minutes. Other consumers may not find time for significant preparation in advance of the in-depth review, and in such cases the interview could take up to an hour. The participants in the second pilot study reported taking an average of 69 minutes (median 53 minutes) to prepare for the interview, with 90% taking between 10 and 180 minutes. The interviews themselves took an average of 19 minutes (median 15 minutes) with 90% taking between 5 and 45 minutes. Overall, the average combined time for preparation and the interview was about 90 minutes (1.5 hours). For a national study involving 1,000 consumers, FTC staff thus estimates the burden hours for the review process to be approximately 1,500 hours (1,000 consumers  $\times$  1.5 hours). Further adding on the time spent for the registration process (0.25 hours per participant), the total burden hours come to approximately 1,750 hours.

#### C. Estimated Cost Burden

The cost per consumer for their participation should be negligible. Participation is voluntary and it will not require any start-up or capital expenditure. There is no labor time expenditure beyond the 1.75 hours per consumer estimated above. Participants may receive an honorarium to compensate them for their time. The amount will be determined by FTC staff in consultation with the contractor according to an analysis of customary procedures and a consideration of response rates within key categories, such as, response rates for consumers with impaired credit. As with the pilot studies, participants will not pay for their credit reports or credit scores.

#### D. Summary of and Response to Public Comments to Prior 60-Day Notice

The commenters were the Consumer Data Industry Association (CDIA), Mr. Chris Hoofnagle of the Berkeley Center for Law & Technology, and Privacy Times submitted by Mr. Evan Hendricks (and signed by additional parties). No comments addressed the cost and hour burden estimates nor challenged the need or the importance of the study. Overall, the comments addressed the qualifications of any potential contractor, the universe of participants to be covered by the study, and some concerns about specific parts of the methodology of the study.

The comment from the CDIA, submitted by Mr. Stuart Pratt, is generally supportive while expressing certain concerns. The CDIA (at 2) believes that the FTC's use of consumer interviews combined with the FCRA dispute process "compares favorably to the flawed methodology employed by consumer groups in their 'studies' of credit report accuracy." The CDIA recommends the FTC highlight these differences in its communications about the study. As discussed above, in its 2004 Report to Congress, the FTC reviewed all prior studies and created a design for a national study to specifically address certain shortcomings of prior approaches. In an upcoming report to Congress about the results of the national study, the FTC will again point out the ways in which the study has addressed prior shortcomings.

The CDIA (at 1) expresses the concern that the methodology may over-sample consumers with low credit scores; it recommends the ultimate study group have credit scores that "are reflective of the distribution of scores in the databases of the nationwide consumer reporting agencies." FTC staff agrees with the stated recommendation. As discussed in the referenced FR notice of July 20, 2009 (at 35194), the second pilot study confirmed that purely random sampling of potential participants yields too few actual participants with low credit scores. In the national study, invitation letters will be sent in progressive waves, and proportionally more invitation letters will be sent to groups having lower credit scores. Based on our knowledge of the second pilot study and also the knowledge that will be gained from the response rates of the earlier waves of letters in the national study, FTC staff will be able to adjust subsequent waves of letters to the potential respondents in certain score ranges so as to achieve a total set of respondents whose credit scores are indeed in line with national norms. It is possible, although not very likely, that the methodology could render a set of respondents having too many people with low scores. However, since the national distribution of credit scores is known (with great refinement), there are recognized statistical procedures to ultimately correct any over-sampling of low scores (should it occur) and to ensure the statistical reliability of the results, including the reliability of the results for the population as a whole.<sup>20</sup>

<sup>20</sup> See, for example, Harnett, Donald L., *Statistical Methods* (3rd ed.), Addison-Wesley Publishing Co., 1984 (pages 253-254).

The CDIA (at 1) also expresses a concern for reaching out to consumers who do not have Internet access. As explained in the FR notice of July 20, 2009 (at 35195), participants will use the Internet to register for the study. However, for those who may not have Internet access, the contractor will also have a procedure to mail the appropriate disclosures and the study steps to the respondent and then receive enrollment information and the consumer's signed consent in paper form. The in-depth review of the credit reports with the participants will occur over the telephone and does not require Internet access.

The CDIA (at 2) recommends that upon assessing errors by a change in credit score that is attributable to certain errors, the FTC also include measures on how a change in score would impact a consumer's interest rate or other credit decisions; e.g., some changes in credit score would keep a consumer in the same "band of risk" determined by the lender, while other changes could place the consumer in a more favorable band of risk and thus allow the lender to proffer a noticeably better interest rate. FTC staff agrees with this recommendation. In reporting the results of the study to Congress, staff fully intends to include the type of discussion and associated measures here indicated.

The comment from the Berkeley Center for Law & Technology, submitted by Mr. Chris Hoofnagle, strongly supports the FTC's announced goal of acquiring "1000 participants who as a group display a diversity on credit scores and on major demographic characteristics in line with national norms." The commenter further recommends, regarding the qualifications of any potential contractor, that the entity be highly qualified to perform consumer surveys and that it be a neutral entity (i.e., have no stake in the outcome of the study). FTC staff readily concurs with the expressed concern. The FTC will publicly solicit competitive bids for performing the study in keeping with a detailed scope of work (to be announced). Staff will carefully review the credentials associated with each bid and proposal and will seek a contractor who is highly qualified to perform the required work and who has no stake in the outcome of the study.

The comment letter from Mr. Evan Hendricks of Privacy Times (signed by additional parties) covers several of the concerns noted above and addressed there (e.g., qualifications of the study contractor and the need for a diverse set of credit scores reflective of national

norms). The commenter further recommends that the study pay special attention to the matter of data matching procedures, covering such matters as the use of Social Security Numbers and partial matches on consumer identifiers. The matter of data matching procedures has been reviewed in the 2004 Report to Congress, and staff does not anticipate that this study will specifically address the internal data matching procedures used by credit bureaus. However, the contractor will keep a detailed narrative regarding each participant, including specific errors alleged and their subsequent disposition. In tabulating the types of confirmed errors via the dispute process, the study will acquire a great deal of information on the main sources of error in credit reports.<sup>21</sup> Further, in regard to an expressed concern from Mr. Hendricks about recognizing ID theft as an important source of error, the category of alleged error called “not mine” will be separated into the subcategories of “mixed file” and “ID theft.”

#### *E. Request for Comments to Current 30-Day Notice*

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “National Accuracy Study: Paperwork Comment (FTC file no. P044804)” to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at (<http://www.ftc.gov/os/publiccomments.shtm>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual’s Social Security Number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any “[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . .,” as provided in Section 6(f) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments

containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c).<sup>22</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following Web link: (<https://secure.commentworks.com/ftc/FACTA319studypra2>) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the Web link: (<https://secure.commentworks.com/ftc/FACTA319studypra2>). If this Notice appears at (<http://www.regulations.gov>), you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

A comment filed in paper form should include the “National Accuracy Study: Paperwork Comment (FTC file no. P044804)” reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act (“PRA”) should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget (“OMB”), Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395-5167 because U.S. postal mail at the OMB is subject to delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the

<sup>22</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC’s Web site, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtm>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC’s Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtm>).

**David C. Shonka,**

*Acting General Counsel.*

[FR Doc. E9-24992 Filed 10-15-09; 8:45 am]

**BILLING CODE 6750-01-S**

## **FEDERAL TRADE COMMISSION**

**[File No. 092 3140]**

### **Directors Desk LLC; Analysis of Proposed Consent Orders To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

**DATES:** Comments must be received on or before November 5, 2009.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to “Directors Desk, File No. 092 3140” to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtm>).

Because comments will be made public, they should not include any sensitive personal information, such as an individual’s Social Security Number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport

<sup>21</sup> See referenced Federal Register Notice at 35193 (note 9) and at 35194 (note 18) for the types of errors to be tabulated.