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May 22, 2006

Via Electronic Delivery

Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 1-5
Washington, DC 20219
Attention: Docket Number 06-04

regs.comments@occ.treas.gov

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attention: Docket No. R-1250

regs.comments@federalreserve.gov

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RIN 3064-AC99

comments@fdic.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 2006-06

regs.comments@ots.treas.gov

Ms. Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

regcomments@ncua.gov

Federal Trade Commission
Office of the Secretary
Room 159-H (Annex C)
600 Pennsylvania Avenue, NW
Washington, DC 20580
Project No. R611017

[https://secure.commentworks.com/
ftc-FACTAfurnishers](https://secure.commentworks.com/ftc-FACTAfurnishers)

***Re: MasterCard Comments on Advance Notice of Proposed Rulemaking:
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***

To Whom It May Concern:

This letter is submitted on behalf of MasterCard International Incorporated (“MasterCard”)¹ in response to the Advance Notice of Proposed Rulemaking (“ANPR”) issued by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Trade Commission (“Agencies”) in the *Federal Register* on March 22, 2006. MasterCard thanks the Agencies for the opportunity to provide comments on the ANPR prior to the issuance of a proposed rule.

Introduction

The Fair and Accurate Credit Transactions Act (“FACT Act”) charges the Agencies with exploring two specific issues relating to entities that provide information to consumer reporting agencies (“Data Furnishers” and “CRAs”, respectively). The Agencies must consider guidelines “regarding the accuracy and integrity” of information provided to CRAs by Data Furnishers, and require Data Furnishers to establish reasonable policies and procedures for implementing those guidelines. The Agencies must also identify the circumstances under which a Data Furnisher is required under the Fair Credit Reporting Act (“FCRA”) to reinvestigate a dispute regarding the accuracy of information provided to a CRA based on the direct request of a consumer.

¹ MasterCard is an SEC-registered private share corporation that licenses financial institutions to use the MasterCard service marks in connection with a variety of payments systems.

MasterCard applauds the Agencies for issuing an ANPR to gather information prior to developing a proposed rule on these two items. Issues relating to CRAs and Data Furnishers are complex, and the ANPR will assist the Agencies in gathering information prior to issuing a proposed rule. Furthermore, because the decision to furnish information to CRAs is entirely voluntary, any regulatory decisions that may affect Data Furnishers should be carefully considered so as not to create disincentives to providing robust information to CRAs.

As was noted throughout the legislative process leading up to the enactment of the FACT Act, the United States has the most robust consumer credit markets in the world. This is due in no small part to the phenomenal consumer reporting system that has developed in this country. While participants in the system are guided and governed by the FCRA, the consumer reporting system is largely the product of private sector innovation and cooperation. We fully expect the system to continue to evolve and improve as a result of continued private sector innovation. It is our hope that any additional regulatory or compliance obligations arising from this rulemaking process do not inadvertently result in fewer participants in the consumer reporting system, or in a less robust system. We are confident that the Agencies share this desire.

Accuracy and Integrity

Data Furnishers strive to provide accurate information to CRAs for many reasons. Most fundamentally, Data Furnishers are also the end users of the finished product built using the information they provide. This is especially true for MasterCard's member banks because consumer reports are used extensively in connection with reviewing credit card applications and accounts. Data Furnishers also recognize that accurate information results in fewer disputes from consumers, either received from CRAs pursuant to section 611 of the FCRA or received directly from consumers. In other words, accurate information on the front end results in fewer resources expended on the back end as part of an investigation.

Although the mechanics of furnishing information to CRAs will obviously vary from bank to bank, it appears that the rule of thumb is that information is provided to CRAs approximately every thirty days using the Metro 2 format preferred by the major CRAs. Some banks may report on a rolling basis based on the account cycle, instead of providing all of the account information at the same time. The information may be provided electronically or via a hard medium, such as a disk or a "tape".

We also note that Data Furnishers generally provide information to CRAs that is taken directly from their own credit files. The operation of credit card portfolios has become automated for the most part, even for smaller credit card issuers. MasterCard members take advantage of the efficiencies provided by automation in many respects, including in connection with their furnishing of information to CRAs. In this regard, the information furnished to CRAs is generally an exact replica of the information in the cardholders' files at the bank. The automation eliminates opportunities for errors in transcription from the cardholders' files to the file that is ultimately provided to CRAs. It should go without saying that banks make commercially reasonable efforts to maintain

accurate files with respect to the loans they provide. Therefore, the accuracy of the information provided to CRAs from these banks is the product the same commercially reasonable efforts.

Despite the sound process used to provide information to CRAs, Data Furnishers may provide information to CRAs that may not be accurate from time to time, such as if the underlying information in the consumer's file at the bank is incorrect. We believe these circumstances are the small exception to the rule, but no system can guarantee 100% accuracy. In the rare instances in which this occurs, the FCRA provides powerful tools to consumers to dispute the accuracy of information in their file at a CRA. If a consumer disputes information in his or her file, and the CRA determines that the alleged error is not the CRA's error, the CRA will forward the dispute to the appropriate Data Furnisher. Each of our member banks obviously has its own mechanism for investigating the disputes received from CRAs. However, it appears that Data Furnishers generally review the information provided by the CRA and compare it to the information in the consumer's file at the Data Furnisher. Many times a correction can be made based on this type of investigation. Other times a Data Furnisher may feel the need to investigate the facts of matter further, and take the appropriate steps to do so.

The most common system used for receiving disputes from CRAs is the E-OSCAR system established by the major CRAs. The dispute can be received efficiently through E-OSCAR, and the results of the Data Furnisher's investigation are also transmitted back to the CRA through E-OSCAR. MasterCard understands from the users of E-OSCAR that it provides a relatively simple and efficient mechanism through which basic information can be communicated between Data Furnishers and CRAs.

Based on the method by which our member banks generally furnish information to CRAs, and reinvestigate alleged errors, we do not believe that significant regulatory modifications to these processes are required. The information furnished is extremely accurate because it is the information on which the bank itself also relies. Furthermore, investigation requests prompt appropriate reviews of the necessary information. Although regulatory intervention does not appear to be warranted, MasterCard would support efforts by the Agencies to develop guidelines pertaining to accuracy and integrity of information provided to CRAs. Such guidelines should recognize that there are Data Furnishers of varying sizes and technological capabilities. The guidelines should also recognize that absolute accuracy is an unreasonable and unattainable goal. Rather, Data Furnishers should have reasonable policies and procedures, commensurate with the size and scope of their activities, to control for the accuracy and integrity of the information they furnish. We believe that reliance on the accuracy of existing account files should be demonstrative of such polices and procedures.

MasterCard also notes that the Agencies suggest that furnisher practices can affect the "accuracy and integrity" of credit file information by "omit[ting] potentially significant information about the consumer account or transaction, such as credit limits for... the account." The Agencies' assertion begs the question as to what may constitute "accuracy and integrity." We suspect "accuracy" means that the information provided is factually correct. It is not apparent from the legislative history of the FACT Act, nor is it so from

