Attention:
Federal Trade Commission/Office of the Secretary
Room H-159 (Annex N)
600 Pennsylvania Avenue
Washington, D.C. 20580

Re: FACT Act Scores Study, Matter No. P044804

First of all, I would like to praise the passing of the FACT Act into law. The overall basis of the new law is a benefit for all Americans. The provisions for identity theft and establishing the procedures for correcting identity theft gives the consumer a fighting chance in this growing area of concern. Another great section of this law is the ability for all Americans to receive a copy of their credit report for free once a year. Also, the protection to consumers and how their information may be used has provided a much needed benefit as well. Public awareness and consumer education, however seem to be lacking in this arena, and hopefully there will be a large public announcement throughout the regions, once consumers are eligible to receive their free credit reports.

The negatives to the FACT Act can be explained in the first two words of this law, (Fair and Accurate). It is my belief that the credit scoring system would work much more efficient if these two terms were complied with throughout the credit reporting process. The problem is with many consumers and their ability to obtain Fair credit terms. I cannot express enough how much this area is lacking in reporting and the ability to get correct information reported to an individual credit file. It has been estimated that anywhere form forty to as high as seventy percent of credit files contain errors. This is an absolute true fact, and these errors are denying consumers the rights to not only availability of credit, but also the terms (interest rates) that they are charged.

Another negative to the FACT Act has been the reluctance since the passage of the Act to investigate consumer disputes by the creditors. For example, when an errant posting is applied to a credit file, and the consumer disputes the information within the guidelines of FCRA, the creditor is now sending the consumer an Identity Theft Disclosure to sign. Identity theft has not occurred in 99% of these situations. It is the wrong trade line being inserted into the wrong consumers file. That is not identity theft. It is negligence on the part of credit reporting from the creditor agencies, or negligence on the part of Credit Reporting Agencies to get the information to the correct consumer file. It now seems that a loophole has been created for these agencies to not correct the consumer file. This is causing extreme difficulties in getting a correct score and true reflection of a borrowers credit habits. I am hoping that this area will be addressed in more detail over the next year as the FACT Act study progresses over the next year.

Now to the specific questions and details:

1) How should the effects of credit scores and credit based insurance scores on the price and availability of mortgages, auto loans, credit cards, other credit products, and property and casualty insurance be studied?

For some credit scores have been a saving grace to obtaining credit. Just how fair the scoring system is, is another topic in itself. If the credit reporting of accounts contained accurate information, then maybe credit scoring could be a fairer system. The credit reporting issues can cause very detrimental harm to consumers who have errors on their credit reports. Estimates range from forty percent to as high as seventy percent of credit reports contain errors.

If a creditor is to report data to the credit reporting agencies then this information must be accurate. I have recently viewed a "new" scoring model at the request of a large credit card issuer, which if approved, would not require the reporting of high credit balances on the consumer trade line. The way I understand it, the FTC stepped in and halted this proposal, and almost immediately the credit card issuer (The one I suspect), has gone ahead and quit reporting this data anyway. Oh sure, they somehow made the bell shaped curve fit their argument that they would not lose any new customers, but this a ploy by sub prime card issuers to escape having to report accurate data to the credit bureaus.

Another big area of concern pertains to collection agencies. Since the evolution of credit scoring as a determining factor to obtain credit, I am confident that this has been a benefit to Collection Agencies collecting a larger ratio of their debts. However, these same collection agencies seem to forget or fail to update these credit reports as being a paid account. So these accounts are left there causing further harm to a consumer's ability to obtain fair interest rates as their credit score should reflect.

Add up insurers, credit scores, and collections, and you have the potential for a catastrophic source of a profit center for insurers to further charge higher premiums. If an insurer wants to use credit scoring as a determining factor then let them do so with good credit scoring applicants. If this proves an effective tool in measuring liability risk and the insurance companies find this to be accurate, then maybe the FTC can allow further usage of the credit score in determining premiums. Give them a ten year trial on good credit scores vs. claims and let them decide whether it was a good decision. To increase insurance rates for no other reason than a poor credit score is not a valid reason to increase liability insurance rates.

Letting insurance companies use credit scores would further an already existing problem causing detrimental harm to consumers, and I will use my own experience as an example. When an insurance claim is filed to a medical provider, a former insurance company, who was the choice of a previous employer, would take up to six months to process and pay the claim. The health care provider deserves better payment of the issue. After ordering my own credit report last year, I noticed three medical collections on my credit report. They all had been paid, but the timing of the payments from the secondary insurance provider was so slow, that before they had been paid by the insurer, the unpaid balances had been turned over to collections. In recalling the events surrounding the claim, I did indeed find the collection agency contacts in the medical file. Also enclosed were notes telling the collection agency that secondary insurance would cover the unpaid portion of the bill. In summary, the medical provider wanted paid, and when it was not paid in a timely fashion, the account was turned over to a collection agency, that needed to do their job. In reality, had the insurer done their job in a timely manner, this would never have occurred. The end result was an estimated 90 to 120 point drop in my credit score.

What is a reasonable methodology for measuring the price and availability of mortgages, auto loans, credit cards, other credit products, and property and casualty insurance, and the impact of credit scores and credit based insurance scores on those prices and availability?

With the exception of insurance, give consumers the right to see what is on their credit report and address detrimental notations within their credit report BEFORE lenders determine what interest rate should be charged on the credit product. It will then be the responsibility of the consumer to review for any errors. If there are errors, then the Credit Reporting Agencies should be required to correct them immediately (within 72 hours) so that a good credit decision can be made. It would then be up to the Credit Reporting Agency to contact the creditor to update and verify accurate information. {This tool is already in place for lenders to use, but the costs cannot be passed onto the consumer. Standard fees for correcting one trade line is around $25.00 per credit bureau. To correct a credit report with three errors on three different credit bureaus can cost from $225.00 to $360.00. This fee should not have to be paid by the lender (they did not place it there), nor should it be paid by the consumer (they paid the bill). If a Credit Reporting Agency must charge for this service, then it should be charged to the violating lender.

1. An effect can often only be measured relative to a counterfactual (that is, relative to some hypothetical alternative situation). To determine the effects of credit scores on

the price and availability of credit products, what is a reasonable counterfactual to the current use of credit scores?

The following is an excerpt from a credit repair specialist from www.starcreditrepair.com

Also, special thanks to all the members who participated with input on the topic. It is much appreciated, as well as the valiant efforts all of you do to help anonymous members in their battles with credit repair.

"Like I said earlier - scoring should not by any means be the sole factor in approving loans or setting interest rates (not at this time) maybe never.

The system is broke in my opinion as it is, until the Credit Reporting Agencies can improve upon accuracy of the data, and obligate creditors to report to all 3 bureaus! Only then would you have a working system.

But for the standards as we know it, will not be improved any time soon, consumers are continually going to be left out of the scoring especially when they are doing business with companies long term that don't even report to any bureau.

I have already seen changes with the reporting requirements, and the funny thing about it, is that instead of resulting in more reporting companies it is actually cutting a whole bunch more of the current companies out.

I understand that all companies are suppose to switch to using E-OSCAR for electronic transfer and continued use of tapes while other systems are faded out will greatly improve on legibility on paper means.

Would hope that 1st the CRAs could be held accountable for a similar format among them, that the reports could read the same across all three bureaus! No more misunderstandings on what Status Date verses Last Activity or Last Reported Date means.

Also make it mandatory, that all Fields have to be completed by the lender! NO more reporting of just high balances by some and credit limits by others. That is destroying the consumers utilization portion graded by the credit scoring.

I know limited amount of errors are allowed, but this is just crazy, when they go ahead and submit whole tapes that are missing key data fields! They should require that the Lender or processor has to re-do their tapes.

I know this is supposed to be about scoring, but you can't have accurate scoring until reporting errors are addressed.

The next important factor, is more work on the CRAs part to train the business which they set up to report exactly on how to properly report! They need more tech support for the businesses then there is, and I mean trained support! That can keep going back to a group of companies and re-training every time personnel are switched out, or have software or classes just for training on a regular basis - I don't care - create a college for these people! That is there 24 / 7 to teach. This is such an important matter that we need to start giving it the attention that it needs.

Then once you know that this problem has been 150% fixed, then go back to the scoring, and knock out all the systems & models, there should be just one standard! Ok, make one scoring system for all 3 bureaus and sub models for this one scoring system.

You can then have auto score, mortgage / installment score, credit card score, and so forth, but quit making multiple systems and editions to each agency! It is plumb crazy to see consumers pulling their score and seeing a "650" then thinking they have the loan go and apply for a mortgage just to find out their score was "570" (just for example) - mean would you not feel cheated if you were sold a lemon product that was a waste of your money??

BUT then you sell the consumers all of the scores seen by the lenders! Make it selective to which industry they need it for. SO they are not ripped off when they do finally apply for the loan.

Make a standard Summary of Rights that explains scores that all 3 bureaus and businesses have to disclose to consumers just solely on the scoring system.

To determine the effects of credit-based insurance scores on the price and availability of property and casualty insurance, what is a reasonable **counterfactual** to the current use of credit-based insurance scores?

There is no direct correlation between credit scores and damage risk regarding casualty insurance. There may be similarities based on low credit scores, and casualty insurance claims, but the topics are not in any means a direct cause or reflection of one another.

If pressed on the subject, the only relationship would be a lower credit score because of a judgment filed because of an automobile insurance company not paying in full a loan balance after they have decided not to repair a vehicle, and "total" the vehicle instead of repair, leaving the consumer without a vehicle and paying off the balance of a loan that insurance would not cover.

2. Paragraph (a)(2) of Section 215 requires a study of "the statistical relationship, utilizing a multivariate analysis that controls for prohibited factors under the (ECOA) and other known risk factors, between credit scores and credit-based insurance scores and the quantifiable risks and actual losses experienced by businesses." (The ECOA "prohibited factors" are race, color, religion, national origin, sex or marital status, and age.) What is an appropriate multivariate technique for studying this relationship? What data would be required to undertake such an analysis? What data are available to undertake such an analysis?

Topic not discussed.

3. What is an appropriate methodology to determine whether the use of credit scores or credit based insurance scores results in "negative or differential treatment" of ECOA-protected classes?

The mere fact that the length of credit history even calculates into a credit score is
This is age discriminatory to those starting out, and applying for credit. Granted, until a credit paying history can be evaluated, there would be some problems, but after establishing credit, "age of credit history" should have no effect. There are other discriminatory factors utilized as well although not necessarily covered by ECOA. What difference does it make, if an individual is employed as a laborer or if that employee is classified as a professional occupation? This "grey area" accounts for up to 10% of a credit score.

I would propose that utility companies be required to report accounts at least quarterly to replace this 10% factor used in credit scoring.

4. What is an appropriate methodology to determine whether the use of specific factors in credit scores or credit based insurance scores results in "negative or differential treatment" of ECOA protected classes?

For the answer to this question, please let me refer you to the following website:

http://www.insurancescored.com/stories.htm

5. What is an appropriate methodology to determine whether there are factors that are not considered by credit scores or credit based insurance scores that result in “negative or differential treatment” of ECOA protected classes?

Establishing credit can be very difficult indeed and is a growing concern in the transition from our youth to adulthood. The lack of lenders willing to take that first chance to extend credit needs to be addressed. This needs to start no later than high school level within our school systems with education about establishing savings plans and the importance of credit obligations being paid on time. With the establishment of savings, banks would then be able to extend credit based on the savings accounts within that institution.

6. In order to address paragraphs (a)(2) and (a)(3) of Section 215, data are needed on the geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed of borrowers, potential borrowers, insurance customers, or potential insurance customers. Are these data available, and if so, where?

For more on this topic, please refer to the following website link:

http://www.house.gov/jec/tort/cities/cities.htm#endno105

7. If the data discussed in question 7 are not available, what proxies are available for the geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed of borrowers, potential borrowers, insurance customers, or potential insurance customers?

Not discussed

8. If there are proxies for the geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed of borrowers, potential borrowers, insurance customers, or potential insurance customers, what type of analysis would allow inferences to be drawn using the proxies instead of actual data on individual characteristics? What limitations are there to the inferences that can be drawn using proxies in place of data on individual characteristics?

Not discussed.

9. One potential proxy for individual characteristics may be Census data about the location where a borrower or insurance customer resides. What type of analysis would allow inferences to be drawn using data about the characteristics of the location where a borrower or insurance customer resides instead of data on individual characteristics?

More detailed disclosure from the insurance companies could help resolve some of these problems. A resident within a specific geographic area does not mean that they were the cause of the specific claim within that area. A good illustration of this would be a “suburban” dweller having an automobile accident in an urban area. There should be no penalty for residents within the urban area for an action caused by a suburban resident. Better disclosure and evaluation from insurance companies would alleviate some of these disparities in how premiums are evaluated.

What limitations are there to the inferences that can be drawn using data about the characteristics of the location where a borrower or insurance customer resides in place of data on individual characteristics?

The insurance companies already have this system in place. It is called CLUES system. They can pull data from within that system to show the characteristics of all driver profiles. This system is not broken, do not let Credit Scoring systems enter into your decision making process. Refine this system, if you must, but credit scoring and insurance claims are totally independent of one another.

In conclusion, the Fair and Accurate Credit Transactions Act has acknowledged there is a problem with credit reporting. Continued efforts from the FTC, in regards to accurate credit reporting, need to take effect to enable consumers to obtain fair terms for credit obligations. Consumers are spending millions of dollars unnecessarily, just to get their credit reports to reflect accurate information. If the creditor is going to be using this data, then I would suggest stiffer penalties for reporting inaccurate information to the creditors. The $1,000 limit for penalties does no justice to the consumer at all, when they are faced with a new mortgage that reflects terms that are considered sub prime, all because of an inaccurate credit report.

Our proposal would make the credit bureau responsible for correcting the data; from the first time a consumer can show proof that the data is incorrect. They can then collect and forward this information to the credit reporters who have reported erroneous information.

This should not be a consumer's obligation to prove themselves innocent. They have documented proof that the account was paid, yet dealing with some of the Credit Reporting Agencies, will result in a "frivolous claim." How can it be frivolous, it is wrong. It is costing consumers billions of dollars a year in unnecessary interest payments. These billions of dollars would be a very helpful asset in restoring the economy.