

July 13, 2004

Federal Trade Commission
Office of the Secretary
Room H-159 (Annex M)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: “FACT Act section 318(a)(2)(C) Study, Matter No. P044804”

Dear Sir or Madam:

I am writing on behalf of Bank of America in response to the Federal Trade Commission’s request for comment on the effects of requiring that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action. This is a proposed requirement described in Section 318(a)(2)(C) of the Fair and Accurate Credit Transactions Act of 2003 (“FACT Act”).

Bank of America is pleased to have this opportunity to opine on the proposed requirement.

Part 1. Acknowledgment of Existing Process

Information contained in the consumer credit report, which Bank of America obtains from various credit repositories (also called credit bureaus or credit reporting agencies) is vital in making safe and sound underwriting decisions for our credit applicants. Bank of America relies on this data in making thousands of credit decisions every day.

Consumers who have received adverse action decisions follow an industry-standard process for obtaining a copy of their credit report from the repository that originally supplied the report to the creditor. In this process the consumer may or may not receive a copy of their credit report containing the same information from that which was used to make the adverse decision, because of the intervening time that has elapsed.

Part 2. Definition and Intent of the Proposed Requirement

The proposed requirement calls for disclosing “the same credit report” that the creditor relied on in making the adverse decision. Therein lies a fundamental and nontrivial question: How does one define “the same credit report?” For that matter, what constitutes a credit report?

Bank of America believes the **intent** of the proposed requirement is to show the consumer the information contained in their credit profile that formed the basis on which they received a decision, at the point in time when that decision was made.

