



February 25, 2008

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex K)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**RE: Credit Report Freezes - Comment, Project No. P075420**

Ladies and Gentlemen:

The American Financial Services Association (“AFSA”) commends the Federal Trade Commission (“FTC”) for its efforts to be more effective and efficient in the areas of identity theft awareness, prevention, detection, and prosecution. AFSA is grateful for this opportunity to respond to the FTC’s request for commentary on the effectiveness of state file freeze laws.

AFSA is the national trade association for the consumer credit industry protecting access to credit and consumer choice. The Association encourages and maintains ethical business practices and supports financial education for consumers of all ages. AFSA has provided services to its members for over ninety years. The Association's officers, board, and staff are dedicated to continuing this legacy of commitment through the addition of new members and programs, and increasing the quality of existing services.

There are several reasons why a federal credit freeze law is not necessary and may fall short of expectations. First, credit freezes already exist in all 50 states, as consumer reporting agencies (“CRAs”) have made them available at a low cost (or, in the case of identity theft victims, no cost) to all consumers. Second, credit freezes are not a “silver bullet” in the fight against identity theft. Credit freezes only prevent one type of fraud: new account openings. File freezes do not prevent current account fraud, which is the most prevalent type of fraud. Third, there are many other preventative measures short of file freezing available to consumers who are concerned about identity theft. For example, consumers can place an initial fraud alert in their file, or even an extended fraud alert if they are a victim of identity theft. Fourth, credit freezes make difficult for consumers to obtain credit at the “point of sale” (*e.g.*, to get a discount at a department store or to finance a car) unless the consumer plans well in advance and remembers the necessary information to “unfreeze” the file.

Here we comment only on the general category of questions (questions 1-13), as we believe others are best suited to comment on the remaining questions in your request. We note, however, that some of our answers to questions 1-13 may also be responsive to later questions in your request. Thank you for the opportunity to comment on the important questions you pose.

**Answers to General Questions**

1. *To what extent, if any, are credit freezes effective in preventing identity theft? Are there more effective alternatives to freezes for preventing identity theft?*

While credit freezes are a method designed to prevent some fraudulent new account openings, the relative newness of file freezing means it is not currently possible to tell if freezes will have a dramatic effect on the rate of identity theft. Further, credit freezes do not do anything to prevent existing account fraud since credit freeze laws do not restrict access to a consumer's credit file by a creditor with an existing account relationship, and such access is required for on-going account management purposes. According to the FTC, existing account fraud is responsible for the majority of identity theft incidents. Credit card issuers commit a tremendous amount of resources toward detecting and preventing fraudulent account activity and protect consumers from liability for fraudulent charges. The financial services industry has spent billions of dollars preventing fraud over the past several years.

2. *What types of identity fraud, if any, are credit freezes effective in preventing, i.e., new account fraud (thief opens new accounts in victim's name), existing account fraud (thief misuses victim's existing accounts), other?*

Credit freezes are only effective in preventing new account fraud—literally opening new accounts in a person's name fraudulently. It is important for consumers to realize that credit freezes will not prevent all types of identity theft, so that they will not have an unrealistic expectation that a freeze is a prophylactic against the most common type of identity theft—existing account fraud.

3. *How do credit freezes compare to, complement, or detract from rights provided under federal law to consumers to prevent identity theft, such as fraud alerts?*

Credit freezes neither reduce nor increase the rights provided to consumers under federal law. Credit freezes are simply another tool that can be used by consumers. One weakness with credit freezes is that some consumers believe that they will prevent all identity theft by placing a freeze on their credit. This is not true. If consumers perceive credit freezes as a "silver bullet," they may be less vigilant about monitoring their existing accounts for fraud. Fraud alerts appear to be more consumer friendly, as they do not prevent the creditor from reviewing the credit report, unlike credit freezes which completely block the review of the credit report. In the fraud alert context, the consumer may proceed with a credit transaction provided he or she can respond to the fraud alert questions, whereas the consumer may not be able to instantaneously be able to do if a credit freeze has been issued.

4. *Generally, under state laws consumers must place a credit freeze with each CRA separately. How well does this procedure function? Should consumers be able to place a credit freeze with each of the CRAs through a one-call system, similar to that mandated*

*by federal law for placing fraud alerts? What would be the advantages or disadvantages of such a mechanism?*

The current procedure for placing a credit freeze is functioning well. The security freeze laws allow the CRAs to collect small fees, which are necessary and reasonable to continue to make technological advances in freeze systems and to offset other costs. We will leave explanation of real costs and systems to the credit reporting agencies, but add simply that we are not aware of negative consumer experiences with freezing each bureau directly.

- 5. Should credit freeze requests be processed through a centralized source, similar to the mechanism that exists under a federally-mandated program to provide free annual credit reports to consumers? What would be the advantages or disadvantages of such a mechanism*

AFSA here incorporates responses to item #4 above, and leaves substantive comment to the credit reporting agencies, which are in the best position to evaluate the advantages or disadvantages of centralized source processing of reports. However, we recommend that a process be established that would allow customers to select their own uniform PINs at the CRAs. This process would make it easier for customers to lift freezes by facilitating the use of a single PIN.

- 6. Some states limit the right to place a credit freeze to identity theft victims, or waive the placement fees for such victims or for individuals over 65. Should credit freezes be available to all consumers or only certain population groups? Should the placement fees be adjusted or waived for certain population groups?*

Credit freezes should not be limited to identity theft victims, but fees should be (and already are) waived for identity theft victims. Credit freezes should not be adjusted or waived for certain population groups. First, credit freeze fees are not unreasonably high, so a fee waiver is not necessary. Second, credit freezes are implemented and maintained by the CRAs at the consumer's request. This involves a certain cost to the CRAs which they may recoup via fees.

- 7. Many state laws enable a consumer to temporarily remove (lift) a credit freeze so that his/her credit report is available to a particular third party or for a specific time period. What are the costs and benefits for consumers and businesses of allowing temporary lifts?*

Consumers should be able to temporarily lift a credit freeze. This allows consumers to continue to be part of the consumer credit system. Without the ability to temporarily lift a freeze, a consumer would not be able to participate in the credit system at all. To ease access to credit, fees should not be imposed for such temporary lifts. Consumers should be able to perform a temporary lift so that they do not run into problems when they

knowingly intend to finance a large purchase (such as a car, mortgage or large retail purchase via a private label credit card). In such instances, the consumer should be allowed to easily lift the freeze before making such purchase/application.

8. *The fees charged to consumers for each of the different aspects of the credit freeze mechanism (e.g., placing, temporarily lifting, or permanently removing a freeze) vary from state to state. What fees, if any, should CRAs be allowed to charge consumers for these actions?*

AFSA members agree with the CRAs that the CRAs should be able to charge a modest fee for this added service, unless the person is a victim of identity theft. This enables CRAs to continue to advance features of the freezing system.

9. *Many state laws require that CRAs place, temporarily lift, or permanently remove credit freezes within a specified period of time from the initial request, ranging from 15 minutes to several days. What is an appropriate amount of time to allow CRAs to place, temporarily lift, or permanently remove a credit freeze? Is a 15-minute temporary lift requirement operationally feasible? What are the costs and benefits to consumers and businesses of different time periods for temporary lifts?*

AFSA members would like instant temporarily lifts on frozen files so that consumers who want to could take advantage of instant credit offers. In the context of a retail merchant who offers a private label credit card program, or an automotive dealer, speed in closing the transaction is key. For example, a consumer who enters an electronics store and decides to finance a plasma television does not want to wait an extended period of time while the freeze is lifted, nor does the customer who has decided to purchase an auto want to lengthen time spent at the dealer. If either consumer has forgotten to lift the freeze in advance, additional time will be added to the process, or the process could be abandoned by the consumer altogether.

However, at this time we don't agree with statutory time requirements because this type of approach is counter-productive. We note that CRAs do not "sit" on requests for a lift and we think the mutual desire of consumer credit issuers and CRAs to serve their respective customers will continue to be a natural driver toward shortened timeframes. Externally imposed time requirements may serve as a disincentive to continue technological and systemic developments in this area.

10. *Are there aspects of credit freeze mechanisms that encourage or hinder their use?*

Credit freezes do put more of a burden on the consumer when trying to obtain a loan. Consumers with a credit freeze in place must take the step of removing, at least temporarily, their credit freeze. In order to prevent identity thieves from being able to lift a freeze, consumers must remember the unique alphanumeric password that they were assigned when they put the freeze in place. These passwords or pin number/codes are not easily remembered, since consumers do not choose them for themselves.

*11. How do CRA-developed freeze options (CDFOs) compare or differ in practice from credit freezes mandated by state laws?*

We were pleased that in late 2007, CRAs voluntarily extended file freeze provisions to consumers living in the 11 states without existing freeze laws in effect. The protections extended are consistent with a majority of previously-enacted laws in the other 39 states.

*12. How do credit freezes impact credit scoring or data modeling? The designation of questions as relating to “consumer,” “credit report user,” or “consumer reporting agency” experience is for organizational purposes only. Parties should feel free to respond to any and all questions upon which they have comments and/or information regardless of the category in which the question appears.*

It is our understanding that credit freezes do not affect credit scoring or data modeling.

*13. What other beneficial or burdensome effects do credit freezes have on consumers, businesses, or the economy in general?*

Credit freezes may affect the utilization of instant credit at the expense of foregoing desired opportunities for cheaper / valuable offers or credit that may be needed for the emergency purchases of essential goods or services. AFSA believes that universal use of freezes would have negative effects on the economy. Because accessing credit would be so much more inconvenient and frustrating, consumers may choose not to take advantage of cheaper offers of credit at all. We think this would reduce competition in the marketplace and thus artificially increase the rates consumers pay for credit use. Certain financial institutions have seen some consumers becoming agitated when they forget that they have implemented a freeze on their credit report and then are unable to quickly finance their purchase. At the same time, the overall volume of consumers who have availed themselves of the freeze process is very low, so it is hard to gauge whether this process is working for all interested parties. With any future credit freeze regulations, we must balance the good that comes from such regulations with the burdens that these can place upon both the consumer and the financial services industry. That is, we do not want to stifle a consumer's access to credit, nor make the process so burdensome that they forgo entering into credit transactions altogether.

## **Conclusion**

In conclusion, based largely on the bureaus' voluntary agreements to extend file freeze protections to the 11 states without file freeze requirements, AFSA does not believe that a federal credit freeze law is necessary at this time. What's more, we are concerned it would not meet expectations. United States consumers are already able, for a small fee, to place credit freezes on their bureau reports if they want to. If a consumer is a victim of identity theft, these freezes are already free. Thank you again for this opportunity to comment on these important issues. Please

do not hesitate to contact us if you have any questions about our comments or if we can be of any further assistance to you in any way.

Respectfully,

Danielle Fagre Arlowe  
Senior Vice President  
American Financial Services Association  
919 Eighteenth Street, NW  
Suite 300  
Washington, DC 20006  
Direct dial 952.922.6500

Cecilia Winslow  
Legal and Regulatory Affairs Analyst  
American Financial Services Association  
919 Eighteenth Street, NW  
Suite 300  
Washington, DC 20006  
Direct dial 202.776.7300