NAMIC®
NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

February 25, 2008

Federal Trade Commission
Office of the Secretary
Via Web site: https://secure.commentworks.com/ftc-CreditReportFreezes
Room H-135 (Annex K)
600 Pennsylvania Ave., NW
Washington, DC 20580

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

Dear Sir or Madam:

The National Association of Mutual Insurance Companies ("NAMIC") is pleased to offer comments in response to the Federal Trade Commission's ("FTC" or "Agency") request for comment on the impact and effectiveness of credit report freezes.

NAMIC is the largest full-service national trade association serving the property and casualty insurance industry with more than 1,400 member companies that underwrite more than 40 percent of the property and casualty insurance premium in the United States. NAMIC members are small farm mutual companies, state and regional insurance companies, risk retention groups, national writers, reinsurance companies, and international insurance giants.

Background

In April 2007 the President's Identity Theft Task Force issued its national strategic plan to address identity theft. The task force recommended that the Federal Trade Commission (FTC), with support from other participating agencies, assess the impact and effectiveness of credit freeze laws and report its findings to assist policymakers in evaluating the necessity of a federal credit freeze law.

In response on February 10, 2008, the FTC requested public comment on the existing state credit freeze laws and commercially-developed credit freeze options. [1]

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[1] Thirty-nine states and the District of Columbia have enacted laws prohibiting consumer reporting agencies from releasing a consumer's credit report or score relating to the extension of credit (with certain exceptions) at the request of the consumer. Eligibility for credit freezes, compliance procedures and fees vary among the states. State laws proscribe procedures for placing, lifting and removing credit freezes and establish exceptions to the freeze. As of November 2007, the three nationwide consumer reporting agencies (Equifax, Experian, and TransUnion) began to offer a commercially-developed credit freeze option to residents of all states.

The FTC requested public comment on the effectiveness of credit report freezes, experiences of consumers, users of credit reports and credit reporting agencies.

The hallmark of the modern American economy is open and rapid access to financial services, including insurance products. This modern and efficient financial services system is dependent upon instantaneous and accurate identification of individuals and proper matching and tracking of essential information, including financial history and public records. Timely access to accurate financial records, including credit reports, is essential to the efficient and effective operation of a 21st century economy. As businesses, consumers and policymakers debate modifications to current policy with respect to access of credit reports care must be undertaken to properly balance the need for privacy and security with the need for rapid access to accurate financial and public record information.

The financial services industry, including the insurance industry, is highly dependent on access to financial and other personal information. Credit reports provide insurers with an expedient, cost effective method for obtaining this information. The financial services industry is also at the forefront of efforts to protect the security and integrity of sensitive information and reduce fraud. Insurers, like other financial institutions, comply with federal and state laws, employ a high degree of internal controls and are regularly examined by regulators to safeguard the integrity and security of sensitive information.

The FTC has requested specific comments on the impact of credit freezes on users of credit reports. Property and casualty insurers are significant users of credit reports and we are pleased to offer comments on the importance of our continued access.

Property and casualty insurers use credit reports and the information contained therein for a variety of purposes essential to industry operation. Current uses include:

- Consumer identification and verification;
- Financial condition determination and verification;
- Access to public records, including criminal records;
- Fraud detection and loss control activities; and
- Business requirements, including employee and agent background checks, ongoing background monitoring of employees in high risk positions, due diligence of business partners, compliance with audit and examination procedures and communications with regulators relating to agent/broker registrations, satisfaction of educational requirements and disciplinary actions and terminations.

Specific information collected and used varies by company, the type of risks and coverage underwritten, business requirements and other factors. However, regardless of the specific needs of an individual company, insurers are dependent on access to accurate and complete information to appropriately underwrite and price coverages.

Accurate and timely access to the information in credit report databases is essential to ensure that insurance consumers are accurately rated and properly underwritten. As such, NAMIC and the insurance industry have consistently urged states to recognize the importance of information and to permit companies with a preexisting customer relationship to continue to access credit reports. In addition, exceptions must be provided for any purpose permitted or authorized under the Fair Credit Reporting Act (15 U.S.C. 6801-6827). To specifically recognize the importance of access to information by property and casualty insurers, certain states have also included specific exemptions for requests for access to credit reports for use in setting or adjusting a rate, issuing or underwriting a policy, adjusting a claim or servicing a policy for underwriting for property and casualty insurance purposes. As the FTC and the federal government consider credit freezes, NAMIC urges regulators and lawmakers to respect the need of the industry for information and to ensure continued access to credit report information.

Because state laws impose significant duties and obligations on property and casualty insurers, it is essential carriers not be penalized for restrictions on their access to information. In the absence of specific exceptions allowing insurers to access credit reports, provisions must be included to allow insurers to:

- treat the consumer's application as incomplete;
- decline the consumer's application if the consumer does not lift the security freeze after a request by the insurer or the insurer's agent;
- treat the consumer as if the consumer had a neutral credit rating; and
- exclude the use of credit information as a factor and use only other underwriting criteria

It is also important that policymakers recognize the important distinction between enacting legislation or regulations permitting freezes on “credit reports” and “consumer reports.” Legislation specifying "credit report" limits the freeze to the actual credit report only, thus safeguarding consumers from third parties accessing their identity. Conversely, legislation using the "consumer report" definition would allow the freeze to apply not only to the credit report but to virtually every other report utilized by insurers for underwriting and fraud prevention, including claims loss-history and motor vehicle registration databases and reports.

Laws, whether at the national or state level, that impose broad prohibitions on access to credit reports for necessary and legitimate business purposes present significant problems and give rise to a host of unintended consequences. Simply allowing consumers to “freeze” credit reports without inclusion of proper exemptions could have the effect of hindering the efficient operation of our nation’s financial services economy and, ironically, could increase fraud and identity theft. With respect to insurance, limiting access to credit reports could significantly increase the cost of insurance investigative and risk-management operations, decrease the speed of operations and potentially expose gaps in records that would open the door to increased fraud.

Personal records, including financial records and governmental documents, cross state boundaries and the insurance industry, along with the business community, has consistently argued the merits of a single consistent national standard. Inappropriate, overly restrictive, or inconsistent state specific standards could have a disruptive effect on consumers in that state and on the national system as a whole to the extent that it affects the integrity of the information system. As such, insurers urge federal and state policymakers to continue to work together to establish a consistent national standard that permits proper exceptions and appropriately balances the desire for privacy and security with the need for access to timely and accurate information.

Conclusion

We are pleased that the FTC has consistently recognized the inherent value to our economy of accurate, efficient and affordable access to financial services products and services, including insurance. We look forward to working with the FTC to establish safeguards to protect the privacy of individuals while fostering an efficient and effective business environment for our nation’s insurers and policyholders.

Sincerely,

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