



Property Casualty Insurers  
Association of America  

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Shaping the Future of American Insurance

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Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex C)  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

RE: Credit-based Insurance Score – Homeowners Insurance – P044804

### **Introduction**

On behalf of our member companies, the Property Casualty Insurers Association of America (PCI) appreciates the opportunity to offer the following remarks to the Request for Comments pertaining to the Federal Trade Commission (FTC) study on credit-based insurance scores in homeowners insurance – P044804, and asks that they be made part of the official record.

The PCI is a leading property and casualty trade association, representing over 1,000 companies that write 40 percent of the general insurance market and 38 percent of the residential property market in the U.S. Our member companies offer all lines of coverage, including automobile, homeowners, workers' compensation, surplus lines and reinsurance, in all 50 states and the District of Columbia. The membership is comprised of every type of insurance company – stock, mutual, reciprocal and Lloyds.

Regarding the first phase of the FTC study (completed in July 2007), the PCI is pleased to have been able to collaborate with the FTC in providing guidance on its automobile insurance study, and working with appropriate parties to obtain additional non-insurance-related information. The FTC conducted an unbiased analysis of the use of insurance scores in the automobile insurance industry, and we stand ready to continue

working with the Commission in its efforts to study the availability and affordability of credit-based insurance scores in homeowners insurance.

Without a doubt, the FTC must have relevant insurance policy coverage information and relevant insurance policy claims information in order to conduct a homeowners study. When conducting its automobile study, the FTC worked with insurance industry representatives in obtaining data to analyze the impact of credit-based insurance scores; it is our understanding that the FTC was satisfied with the credibility and reliability of the information provided. As such, it was agreed that the FTC and insurers would continue their collaboration to ensure that similar homeowners information would be shared on a voluntary basis. Unfortunately, the FTC has now altered its thinking and intends to serve orders on the nine groups which are the largest providers of homeowners insurance, comprising more than 125 insurance companies.<sup>1</sup> The draft model “Order to File a Special Report” requires significantly more information than previously sought under the FTC automobile study completed in 2007.

Our comments are summarized as follows: There are strong concerns regarding the FTC’s legal authority to use compulsory process. Based on Section 215 of the Fair Accurate Credit Transactions Act (FACTA) and Section 6 of the FTC Act, there are compelling arguments against the FTC’s ability to do so. Further, compliance with the Paperwork Reduction Act of 1995 (PRA 95) is not satisfied, as certain standards regarding the amount of burden imposed on insurers, the consistency and compatibility of the information collected with insurers’ reporting and recordkeeping practices, and the effective use of the information collected and statistical survey methodology are not met.

The PCI also has many serious concerns regarding the lack of privacy protections in the draft model Order and the amount and type of homeowners information requested.

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<sup>1</sup> PCI finding, based on 2007 homeowners written premium data compiled by the National Association of Insurance Commissioners (NAIC).

Privacy and confidentiality protections remain of highest concern. Procedures that ensure the privacy of customers' nonpublic personal information and the confidentiality of companies' proprietary information need to be defined in the data call. In addition, the study must be both reasonable and manageable in scope. It cannot be so broad in nature that it would cause an undue burden on insurers in terms of the effort and costs in gathering and providing the information, or an undue burden on Commission staff in organizing and analyzing the information. The timeframe given to provide the information must be more realistic. Not only does the current data call request an excessive amount of information, but some of the information is not needed to study the impact of credit-based insurance scores on the homeowners line.

The PCI proposes that data be provided by insurance firms on a voluntary basis and that a mutually agreed-upon third-party facilitator be used to aggregate the information to protect the confidentiality of both policyholders and participating companies. Also in our comments, we propose viable ways to streamline the submission process and make suggestions regarding simplifying the analysis and eliminating certain unnecessary data items. For example, a credible amount of data can and should be collected by means of statistically valid random sampling.<sup>2</sup> We further urge the FTC staff to confer with companies and one of the credit bureaus to ensure that necessary and sufficient types of information would be collected for the study.

In this way, the research process would still be accomplished yielding meaningful findings without compromising the FTC's objectives. The study would be done in a much more timely and efficient manner without placing substantial hardship on participating insurers and resulting in costly delays.

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<sup>2</sup> Sampling is a very common and generally accepted statistical practice when evaluating a large population. In fact, one of the standards set forth by the National Association of Insurance Commissioners (NAIC) Market Regulation Handbook (D) Working Group ("Core Competencies," November 15, 2007) states that documented sampling guidelines or a scientifically-based sampling program should be used, and that sampling should be done randomly.

### **The FTC Does Not Have Legal Authority**

In addressing our concerns in this letter, we are not waiving our legal rights with respect to the FTC “Order to File a Special Report.” First, the FTC has no compulsory process to obtain information from insurers in order to conduct a study on credit-based insurance scores in homeowners insurance. Secondly, compliance with the Paperwork Reduction Act of 1995 (PRA 95) is not satisfied.

The FTC intends to use compulsory process to obtain information from the nine largest private homeowners insurance providers. As stated in the April 8, 2008 letter, prepared by the law firm of Wiley Rein, LLP on behalf of the PCI and two other property casualty trade associations, the FTC has no legal power to issue subpoenas to obtain data for the following reasons: “Under FACTA’s clear, unambiguous language, Congress has not authorized the FTC to use compulsory process against any party, including insurers, for the conduct of the section 215 study.” Further, “under a distinctive, insurer-only provision of Section 6 of the Federal Trade Commission Act, the Commission is prohibited from using compulsory process against insurers.”

The nine largest homeowners insurer groups represent 62.3 percent of the market share and comprise a total of more than 125 individual insurance companies. Solicitation of data from such a large assembly would most likely trigger the application of the PRA 95. Information from 10 or more companies would be subject to the provisions of the PRA 95 and require review and clearance by the Office of Management and Budget (OMB) before the issuance of any Commission order.

As further mentioned in the April 8, 2008 letter, if the Commission does proceed with compulsory process under the current proposed draft model Order, insurers may likely be forced to challenge this both at OMB and in the courts. Such actions may be extremely time consuming involving lengthy and costly legal battles, greatly delaying the

completion of the study. The PCI and its members do not want to stand in the way of such a study. As was the case with the automobile study, we continue to offer our assistance to work with the FTC, within its proper legal authority, and help obtain the appropriate and necessary homeowners information. In this spirit of cooperation, the research process would be conducted more smoothly and expeditiously, minimizing the burden on all parties.

We strongly urge the FTC to adopt the trade associations' proposal to issue letters to individual insurers requesting that information be provided on a voluntary basis. In this way, any challenge to the compulsory process would be avoided. A fair and balanced homeowners study would still be designed in a reasonable timeframe that would not significantly diminish the Commission's research capability.

### **Compliance with the Paperwork Reduction Act is Not Satisfied**

According to the PRA 95, the collection of information is defined as "the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public of facts or opinions by or for an agency regardless of form or format." [44 U.S.C. 3502(3)(A)]. As mentioned earlier, information collection requirements must be submitted to the Office of Management and Budget (OMB) for review under the Act (44 U.S.C. 3501-3520), as implemented by OMB in regulations at 5 CFR part 1320, since identical questions are being asked to obtain or solicit facts or opinions from 10 or more "persons."<sup>3</sup> Under the PRA 95, no "person" may be required to respond to, or may be subjected to a penalty for failure to comply with, these requirements until they have been approved and the assigned OMB control number has been announced.

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<sup>3</sup> In Section 3502 of the Paperwork Reduction Act of 1995, the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, tribal, or local government or branch thereof, or a political subdivision of a State, territory, tribal, or local government or a branch of a political subdivision.

The draft model “Order to File a Special Report” does not comply with certain standards set forth in the PRA 95; these particular standards are especially significant as they relate to the FTC data call for homeowners information. According to 44 U.S.C. 3506(c)(3) – *Federal agency responsibilities* – “with respect to the collection of information and the control of paperwork, each agency shall...certify that each collection of information submitted to the Director for review under section 3507 –”

- ...“reduces to the extent practical and appropriate the burden on persons who shall provide information to or for the agency...” [44 U.S.C. 3506(c)(3)(C)].

The draft model Order is extremely burdensome; it would result in the collection of a significant amount of information that would never get used for the purpose of evaluating credit history, or result in a study that would require an inordinate number of years to complete.

- ...“is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond” [44 U.S.C. 3506(c)(3)(E)].

Some of the reporting requirements contained in the draft model Order are neither consistent nor compatible with insurers’ recordkeeping practices. Although a certain amount of IT programming is expected to be done to retrieve some of the information requested, the additional amount of work should be kept to a minimum to ensure timely delivery of information.

- ...“has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public” [44 U.S.C. 3506(c)(3)(H)].

Some of the information and data requested are not connected to the use of credit history at all; hence, these items would provide no value in terms of studying the impact of credit-based insurance scores in the homeowners insurance industry.

- ...“uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected” [44 U.S.C. 3506(c)(3)(I)].

The draft model Order is seeking information on all policies in place or in force during the “relevant time period.” Collecting census information is not necessary; in this case, statistical sampling done on a random basis would be an appropriate survey methodology. Studying a valid sample of policies would still enable the FTC to develop a meaningful research study.

In order to comply with the Paperwork Reduction Act, we strongly recommend that the “Order to File a Special Report” be revised in such a way as to decrease the amount of information that is being requested. We believe the data call can be crafted so that the FTC’s research needs will continue to be met, while all unnecessary workload for participating insurance firms and the FTC is eliminated. Our recommendations are specifically discussed in later sections of this letter.

### **Consumer and Insurer Protections are of Utmost Importance**

As previously expressed, the PCI and its members continue to have very strong concerns that the confidentiality of individual insurer information and privacy of customer information be maintained. Insurance carriers and agents have built sound relationships with their customers based on common goals and mutual trust. Each insurance carrier has an ongoing commitment to respect the privacy of its policyholders and the integrity of their personal information.

There is no privacy protection imbedded in the draft model Order and no mention of the security measures that should be taken to ensure confidentiality of the data submitted. Since many of the items requested for the study constitute proprietary and nonpublic customer information, we ask that the FTC address confidentiality concerns of the participating insurers and their customers. Specific protections regarding data submissions need to be explicit; for example, there should be guarantees that: (1) the data will only be used for the purpose of the study; (2) the data will not be released to third parties unless it is for purposes of administering the study; and (3) the data will be destroyed or returned to insurers within a reasonable amount of time after the study is completed.

Additionally, many of the PCI members have developed, at great expense, proprietary underwriting systems and formulas. Most insurers view their underwriting rules, rating procedures, credit scoring models, and other processes as confidential items that give each company a competitive advantage in the marketplace. Companies are concerned that their proprietary information may be disclosed not just to the general public but also to their competitors. If this information is not protected, it could remove any competitive advantage an individual company may derive from their investment. Moreover, among other things, the possible release of sensitive information could result in future litigation against insurers for enabling customers' personal information to be disclosed.

In order to minimize the likelihood that other parties may access individual insurer and policyholder data once the study is completed, we strongly recommend that steps be taken upfront to ensure the security and confidentiality of non-public personal and company information. To have added assurance of privacy and standardization, information provided by participating insurers should be sent to a mutually agreed-upon depository facility for aggregation.



Insurers need to be confident that their information will be protected so they will be comfortable in supplying information for the study, whether it is directly sent to the FTC or to a third party. The privacy protections that we are requesting are similar to what insurers typically negotiate in their own contracts.

### **The Draft Model Order is Overly Broad in Length and Scope**

#### ***A Massive Data Call Is Unnecessary***

The breadth of the draft model Order is indisputably massive. The data call goes far beyond the information typically requested as part of a market conduct examination, even a comprehensive one.

According to the PRA 95, the burden imposed on those asked to provide information should be as small as possible [44 U.S.C. 3506(c)(3)(C)]. Full compliance of the data call would place an economic burden on respondents. Additional expenses may relate to the rewriting of IT programs and training employees to prepare the appropriate data files/tables for submission. There would also be costs associated with increased printing and mailing, along with purchasing additional hardware on which to submit the files and records. Costs would be especially burdensome to many of the smaller companies affiliated with the insurer groups. The large sums of money that this project would cost taxpayers also cannot be dismissed.

Further, there would be a significant burden in terms of the amount of required paperwork and/or data processing. Given the enormity of this request, we must consider the amount of time and resources needed for participants to gather and process the required information for submission to the FTC. It is also important to consider the impact on the FTC. Indeed, mulling over all the information provided may make this an unmanageable endeavor for Commission staff.

In this regard, a comparison to state market conduct examination processes is useful. When calling a market conduct examination, the states generally request policy and claims listings and randomly select a small percentage to review (they then might expand their review after an exam begins when the errors are over a set percentage). Commission staff can work with participating insurers to determine a statistically valid sample of policyholders to analyze. This procedure would also comply with the standard set forth in the PRA 95, citing appropriate use of “effective and efficient statistical survey methodology” [44 U.S.C. 3506(c)(3)(I)]. Certain industry practices could also be obtained through written summaries of insurance procedures or examples of rating manuals, underwriting guidelines, etc.

Credible conclusions regarding the population and the use of credit-based insurance scores in the homeowners insurance industry can still be made using a statistically valid random sample of policyholder data, and the study could be accomplished in a less time-consuming and less costly manner.

In addition to gathering data by means of a sampling procedure, we recommend that the FTC entertain the following approach that would make the submission process run more efficiently. The currently designed process – even if done on a rolling basis, as described in the Order – might result in companies having to reconstruct and resubmit information due to miscommunication or misunderstanding of what is requested.

We therefore suggest that limited information first be provided to Commission staff for their review and approval. The information could reflect one state or one data file/table for one state. In other words, rather than gathering certain data for all 50 states, data for only one state could be submitted initially for staff review. Upon reaching agreement on the format and content of the sample, companies would then continue to gather and submit additional information for the remaining states.

The above process would ensure that the items and the format are appropriate and meet Commission staff's needs. By providing limited state information and coming to an agreement first, companies would be assured that their time is being spent efficiently in providing the right information. The labor-intensive efforts underlying the information gathering and review process for both participating insurers and Commission staff could be reduced without compromising the research needs and goals of the FTC.

To comply with the Order as currently drafted, many hundreds of hours of employee time would be needed to organize the information as requested. Certain data are not readily available in automated company data fields even if they are in the application or policy file; this would require either a manual effort or special software development to obtain the information. While specific IT programming may be necessary, one of the standards of the PRA 95 is such that reporting requirements should be consistent and compatible with respondents' current reporting and recordkeeping practices to the maximum extent practicable [44 U.S.C. 3506(c)(3)(E)].

In addition, multiple databases storing various pieces would need to be accessed, while other data from manual or closed files may be difficult to obtain. Companies may not be able to merge all of these data elements, which could be coming from several different sources, into one single line of data. If a claim occurs, insurers would have the same issues for assembling claims data. Indeed, the amount of time allotted to this data call could very well result in corporations' business interruption or slow downs to the extent that employees are assigned to the call to amass all the information and hence are unable to conduct their normal work duties. Providing all the items as requested may also result in hundreds of DVD-ROMs and/or external hard drives submitted to the FTC.

The enormous amount of time and effort required by Commission staff to compile, organize and analyze all the information must be taken into consideration as well. Based on the market share of these groups (62.3 percent), a rough estimate of the total

number of countrywide policies is about 37 million<sup>4</sup> for one year. If all homeowners companies within the nine largest homeowners insurance groups provided information for the data call, the amount of information for each policyholder, each policy period and each event or accident for which a claim is filed – presented on separate data lines or records – would create hundreds of hours of data processing and/or paperwork burden.

### ***Unnecessary Information and Data are Being Sought***

The PRA 95 also requires that the information collected should be used effectively [44 U.S.C. 3506(c)(3)(H)]. However, the FTC Order seeks more information than is reasonably necessary to evaluate the impact of credit-based insurance scores in homeowners insurance. Vastly more homeowners-related information and data are being sought now than what was believed to be agreed upon between Commission staff and the insurance companies that were willing to participate on a voluntary basis a few years ago.

At that time, the FTC agreed that a sample of policies across the entire market spectrum (i.e., preferred, standard, and non-standard) drawn from homeowners policies commonly referred to as HO-3 and HO-5 policy forms, or their equivalent forms, was sufficient for its purposes. There is no reason to greatly expand the data call, making it much more labor intensive on the part of both participating insurers and the FTC. The additional data required would not provide significant value to the findings of the study.

All of the information described in the draft model Order is not necessary to achieve the FTC's primary goal in studying the use and effect of credit-based insurance scores. Some of the information and data elements have no direct link to credit history and are thus extraneous to the study. For example, it is not clear how drivers' license numbers and the business channel through which the policy was originally/initially written would be used in studying the impact of insurance scores on the availability and affordability of

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<sup>4</sup> PCI finding, using the 62.3 percent market share (2007) represented by the nine largest insurer groups and house year information (2005) collected by the NAIC. It is assumed that

homeowners insurance. There is no reason to obtain companies' compensation plans for agents, brokers, salespeople, underwriters, and other employees. These types of information were not studied in the automobile insurance analysis and they are not needed to conduct similar research in the homeowners insurance analysis.

We respectfully ask that the elements listed below be deleted from the data call. They have no relevance to the use of credit history, and companies may not even have some of this information.

- Driver's license number [*Specification (2)(e), Policyholder Data*].
- The business channel through which the policy was originally/initially written [*Specification (3)(j), Policy Organization and Renewal Data*].
- Premium breakdown by coverage [*Specification (4)(b), Premium Data*].
- Whether the premium is paid in installments over the policy period [*Specification (4)(c), Premium Data*].
- FAIR Plan policies [*Specification (5)(c), Coverage Data*]. The FTC needs to obtain this information from the state FAIR Plans.
- Lot value of the land on which the house is built [*Specification (5)(j), Coverage Data*]. The insurer may not have this information.
- Tenure at current house/address [*Specification (7)(q), Risk Data*]. The insurer may not have this information.
- Value or codes for any individual/personal or family income information [*Specification (7)(u), Risk Data*]. The insurer may not have this information.

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one house year is equivalent to one homeowners policy.

- Endorsements and Additional/Extended/Optional Coverage Data [*Specification (8)*]. Endorsement activity would require matching with policies; there also are many miscellaneous endorsements which would not add value to the analysis.
- Whether the policyholder has flood insurance coverage [*Specification (8)(f), Endorsements and Additional/Extended/Optional Coverage Data*]. The primary insurer may not have this information.
- The proportions or percentages of the Company's Policies written through each business channel (e.g., direct, captive agents, independent agents) [*Specification (14)(a), Business Channel, and Agent Compensation and Pricing Decision*].
- Companies' compensation plans with respect to all insurance agents, brokers, salespeople, underwriters, and/or Company employees involved in selling and/or issuing the Company's Policies, including but not limited to individual and team-based bonus or incentive plans [*Specification (14)(b), Business Channel, and Agent Compensation and Pricing Decision*].
- The extent agents, brokers, salespeople, underwriters, and/or Company employees who market and/or sell the Company's Policies have discretion in setting prices/premiums for an applicant with a given set of risk characteristics and seeking a Policy with a given set of attributes (e.g., a specific Form code(s) with a given set of limits, deductibles, and endorsements) [*Specification (14)(c), Business Channel, and Agent Compensation and Pricing Decision*].

A decrease in the amount of information requested in the Order would streamline the gathering and submission process, expedite the delivery of the data and allow findings to be developed more quickly.

### **The Response Time to Comply with the Data Call is Inadequate**

When calling a market conduct examination, most states give insurers 60 days advance notice and allow extensions for individual items while having the available data submitted on time. Under this scenario, a time period of 60 days reflects focus on obtaining relatively limited information for one state and is a common benchmark for what is a reasonable response time for a small data production.

In contrast, the FTC is seeking a massive amount of countrywide data upfront on all policies and claims (at least some data are not readily available), all within a 60-day period. The FTC's timeframe to submit all information within 60 days is vastly insufficient (even without comparing it to the time given for a market conduct exam). As such, we strongly urge the FTC to reconsider the amount of time and effort it takes to collect, organize and retrieve the information requested. A minimum period of at least 180 days is recommended. This time span may still be too short; quite possibly in some cases, it might entail a minimum of 180 days simply to prepare a portion of the data for submission.

### **Other Data Concerns and Issues**

The following items discuss additional concerns the PCI has with respect to the data requested. We believe the recommendations discussed below will further help Commission staff to meet their research needs while minimizing any unnecessary burden on participating insurance firms.

1. In various sections of the draft model Order, participants are asked to provide information "for any further time sub-interval(s) during a Policy Period if any changes to such information were made or registered within a Policy Period." In other words, the FTC is requesting data on a transaction level, but analysis of data at this level does not add significant value to the research findings.

With respect to transaction data, as experience changes over time (including midterm), Commission staff will need to recognize these changes to understand companies' obligations to submit new lines when building their requirements for this data call. The process of capturing separately each transaction level change within each policy period also adds substantially to the process of compiling and researching the underlying data, but is not expected to significantly impact the overall results.

In performing studies of this nature, the norm is to analyze policy experience based upon policy characteristics as they exist at the beginning of each policy period. This allows for other relevant risk characteristics to be analyzed and reflected as part of a rigorous study. To reduce the efforts of both FTC and participating companies, we urge the FTC to capture only policy characteristics reflecting the start of the policy period. Staff's analysis would not be diminished substantially by doing so.

2. Given that millions more homeowners insurance policies are intended to be examined than the number of policies in the automobile study, retrieving social security numbers [*Specification (2)(d), Policyholder Data*] would be extremely cumbersome for companies because it may entail a manual process.

Some companies may not even have access to social security numbers. If companies do not have this information, then the FTC would most likely have to obtain it through a process similar to that used in its automobile study. In the automobile study, social security information beginning with a sub-sample of 400,000 individuals was obtained from Experian, a credit information group. The process, which was a very time consuming and arduous one, resulted in obtaining social security numbers for 324,563 individuals. Since more homeowners policies will be collected, the process to gather social security



numbers for these policyholders is expected to be more time consuming and arduous for Commission staff.

3. While we understand the FTC's desire to know whether a policy was cancelled or non-renewed because of one's credit history, there are many other reasons why a policy may be cancelled or non-renewed [*Specification (3)(e)-(f), Policy Origination and Renewal Data*]. These additional reasons are beyond the scope of this study and may not be readily accessible, requiring additional IT programming. Hence, we ask that this information be provided only if the credit-based insurance score was the primary cause for non-renewal or cancellation.
4. Some companies may not have information on prior addresses [*Specification (2)(j), Policyholder Data*] or whether a policy is for a secondary or vacation residence [*Specification (5), Coverage Data*].
5. Similar to the FTC automobile study, it is extremely important that a mutually agreed-upon third-party facilitator be used to generate credit scores. As the FTC mentioned in its earlier report, "...different companies may have used different models, and the models may have varied by state." For homeowners insurance, many companies have also developed their own proprietary models based on their own data and methodology or are using the statistical models developed by firms such as Fair Isaac Corporation and ChoicePoint Services, Inc. Because of the wide variety of ways in which insurance scores are used and defined and the variety of ways in which credit risk is evaluated by different insurance companies, collecting different firms' insurance scores would not render meaningful conclusions [*Specification (6), Credit-based Insurance Score and Credit History Data; and Specification (13), Questions on the Development and Use of Credit-Based Insurance Scores and Any Other Credit History Information*].

An analysis of diverse insurance scores generated by a large number of participants would prove to be both challenging and inconsequential. This is precisely the reason why the Attract scores from ChoicePoint were used in the automobile insurance database provided to the FTC. In order to avoid an inconsistent “apples to oranges” comparison that would produce invalid results for the homeowners study, we strongly recommend that an independent firm such as ChoicePoint be used to aggregate the results and compute the insurance scores. As was done in the automobile study, ChoicePoint can also provide other credit history variables to the FTC for further homeowners analyses.

In addition, credit scores were only calculated for one person, the first named insured, for each automobile policy. To be consistent with this approach and eliminate the need for the FTC to collect, research and understand each insurance score used in every state by each participating company, we strongly recommend that a uniform credit-based insurance score be obtained to match insurance policies with the corresponding credit histories of the named insured in each policy. This further justifies the need to have an independent third-party facilitator aggregate insurers’ information and develop insurance scores using a common model.

Finally, when an individual company wants to determine the ability of a credit-based insurance score to predict risk, or to update its scoring algorithm, it generally conducts a credit retro through one of the credit bureaus. If a third-party facilitator will not be used to aggregate this information, then we suggest that Commission staff work with one of the credit bureaus to understand this process.

6. Companies might not have readily accessible information pertaining to recent changes made by the homeowner, in which case further IT programming is

required. It is possible that information such as the most recent renovation and renovation type, present condition of the dwelling, whether part of the dwelling is rented to others, and installation of recent anti-theft devices may not even be reported to companies [*Specification (7)(k)-(m), (o), (y), Risk Data*]. As such, the current risk may not be entirely up to date.

Further, renovation credit is not relevant to studying the impact of credit-based insurance scores on homeowners insurance. Information on partially renovated credit or discount code or class [*Specification (7)(j), Risk Data*] also may not be readily accessible and may require special IT programming to retrieve.

7. Value or codes for any individual/personal or family income information [*Specification (7)(u), Risk Data*] may not be readily available. This may require special IT programming or manual checking.
8. Incurred, paid and reserve claim or loss dollar amounts and incurred allocated claim loss adjustment expenses are also requested [*Specification (9)(e)-(h), Claim Data*]. Rather than providing this information “as of date of service of this Order,” it is suggested that the information submitted be “as of quarter-end.” Since companies are more likely to evaluate their experience at the end of a quarter, we ask that required claims and losses be evaluated at this point in time. There would be no loss of value in the data and these elements would be provided more quickly without having to change companies’ recordkeeping practices.
9. We understand that some information on quotes [*Specification (10), Application and Quote Data*] is desired in order to evaluate the impact of credit history on applicants. If this element is retained, further clarification is required as multiple quotes may have been given to certain applicants.

10. Given all the different combinations of residential property risks, hundreds or thousands of different rating plans and a similarly large number of underwriting guides may have to be submitted to the FTC. Examining all of these manuals would be an enormous undertaking in and of itself. We therefore recommend that the FTC build a rating plan common to the industry or ask for a smaller sample of rating plans from participating insurers [*Specification (11)(b), Data Documentation*].
11. A study period reflecting five years of experience is longer than needed to draw valid conclusions on the use of credit-based insurance scores in homeowners insurance. As described in the Order [*Definition (7)*], the “Policy Period” would cover policies with start dates in January 2003 and policies with end dates in December 2007, including policies in place between these two dates.

While the purpose of asking for policy and related claims data over a 5-year period might be to have greater credibility, ongoing changes in technology, credit scoring practices and products may make results on older policies less relevant. The use of older policies adds to the complexity of studying current risks without adding to the value of the findings. Further, the amount of data required to be assembled by each company would increase substantially.

The automobile database used by the FTC reflected a random sample of policies in place between July 1, 2000 and June 30, 2001. To be consistent with the automobile study, the homeowners database should reflect a similar length of time; we recommend that only policies in place between January 1, 2006 and December 31, 2006 be studied. Given that many more companies would be participating in the homeowners study than in the automobile study, a more limited time period would still result in a larger number of homeowners policies than that used in the automobile study, which should adequately meet the FTC’s research needs.

12. In keeping with the need to protect the privacy of insurers' customers, the number of times certain sensitive policyholder information (i.e., name, address, and social security number) appears should be kept to a minimum. We recommend that these particular items be excluded from each and every data file/table, as described in the Order [*Instruction (7), Distinct Data Files and Cross-File Links*]. A policyholder identification code could readily be developed and used to link the connected files. The limitation of the use of sensitive information could also speed the delivery of some information to the FTC while other information is being developed.

13. Finally, we ask that the FTC recognize the possibility that some of the data requested simply may not be available from companies. As such, there should be a "waiver" process if an insurer in good faith cannot provide certain data. Otherwise, companies would face the time and cost of developing new systems to obtain information not currently available, or face a violation of the Order.

### **Conclusion**

In conclusion, there are strong legal arguments against the FTC's ability to use compulsory process to obtain information for its study on the impact of credit-based insurance scores on homeowners insurance. To avoid a challenge to the compulsory process, insurers should be allowed to participate voluntarily. The model draft "Order to File a Special Report" also does not comply with the Paperwork Reduction Act, as it creates a huge burden on participating insurers; requires certain information that is neither consistent nor compatible with insurers' reporting and recordkeeping practices; requires certain information that would not be used effectively for the purpose of studying credit history; and does not use effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected.

A reduction in the amount of information requested, especially those elements that have no link to the use of credit history, and a simplification of the submission process will reduce the burden on insurers without minimizing the FTC's research capabilities. Further, having an independent third-party facilitator collect and aggregate information that is provided on a voluntary basis will help ensure the protection of consumers' and insurers' private and confidential data.

We believe the recommendations described in this letter will allow the FTC to conduct a more efficient, cost-effective and timely study, while producing reliable and meaningful results at the same time. We look forward to assisting the FTC in this important research. Please do not hesitate to contact me via telephone at 847-553-3772 or e-mail at [diana.lee@pciaa.net](mailto:diana.lee@pciaa.net) if I can clarify any of the above comments.

Respectfully submitted,



Diana Lee