

**Statement of Commissioner Brill on the Federal Trade Commission’s Sixth and Final
Report to Congress Under Section 319 of the
Fair and Accurate Credit Transactions Act of 2003**

January 21, 2015

Today the Commission announces its final report on credit report accuracy to Congress (“Final Report”) under the Fair and Accurate Credit Transactions Act of 2003 (FACTA). I support the release of the report, and write separately to recommend additional steps that would further address the final report’s findings.

As the Commission reported in 2012, many consumers’ credit reports – too many, in my view – contain errors that can have a significant impact on consumers.¹ At that time we found that one in four consumers identified a potentially material error in at least one of his or her credit reports from the three nationwide consumer reporting agencies (CRAs)². If a consumer identifies such an error in his or her credit report, there is approximately a 20% chance that getting it corrected will move the consumer to a lower credit risk tier.³ In other words, for those who find apparent errors, there is a one-in-five chance that correcting a material error could allow a consumer to lower his or her cost of credit or increase the likelihood that the consumer will qualify for a loan in the first place.

The report that the Commission releases today takes the 2012 study several steps further, by offering a unique look at how disputes about allegedly inaccurate information in credit reports are resolved, how much information consumers believe they receive regarding the outcome of their reinvestigation requests, and the factors that influence their decisions to maintain or abandon disputes.

The final report contains two categories of findings that raise serious questions about whether consumers have the information they need when deciding whether to continue a dispute. First, the final report reveals potential significant shortcomings in how consumers are notified of the resolutions of their disputes. Approximately 40 percent of consumers with an unresolved dispute about an item in their credit report do not recall receiving from the relevant CRA a written notice that the agency declined to remove the item,⁴ a notice that is required under the FCRA.⁵ These findings are based on consumers’ memory, and therefore may not be fully reliable; however, they raise some questions regarding whether credit reporting agencies are, in some instances, failing to inform consumers in writing of the results of their reinvestigation.

¹ See FTC, SECTION 319 OF THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003: FIFTH INTERIM FEDERAL TRADE COMMISSION REPORT TO CONGRESS CONCERNING THE ACCURACY OF INFORMATION IN CREDIT REPORT (Dec. 2012), available at <http://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf> [2012 FACTA REPORT].

² 2012 FACTA REPORT at i.

³ See *id.*

⁴ FINAL REPORT at 16.

⁵ See 15 U.S.C. § 1681i(a)(6) (requiring consumer reporting agencies to provide consumers with written notice of the results of a reinvestigation within five days of completing the investigation).

And around half (41-53%) of consumers who were notified that the disputed item would not be removed do not recall receiving an explanation of the CRA's decision.⁶ Taken together, these findings suggest that, outside the context of a highly controlled study like this one,⁷ many consumers may not be aware that the credit reporting agencies disagree that the disputed information was inaccurate, or that the information remains in the consumers' credit report as a result. Second, the number of consumers that abandon their disputes is surprisingly high, given the financial and other stakes involved. Some consumers eventually accepted that the information they disputed was actually correct. But only one in four consumers (26-31%) falls into this category. Of the remaining consumers – those who continue to believe that their credit reports contain inaccuracies -- approximately one-half stated that they plan to abandon their disputes.⁸ They cite a variety of reasons for abandonment, including believing that they do not have time to continue the dispute, the inaccuracy is not hurting their credit score, and the incorrect information is not important.⁹

These findings raise some doubt that consumers have all of the relevant information about the potential benefits of persevering through the dispute resolution process. Nearly every reason that consumers gave for abandoning disputes over information that they believe to be inaccurate raises questions about consumers' understanding of the potential consequences of credit report errors. For example, do consumers who state that an error is not hurting their credit score understand how a change in their credit report will affect their score? Do they know that even a small change in their credit score could place them in a lower credit risk tier and lower their credit costs?¹⁰ Do consumers who view inaccuracies as unimportant or not worth their time to correct form these views in light of all potential uses of their credit reports, including employment and promotion?¹¹

Based on the findings of this final report, the Commission recommends that CRAs improve their notification processes and explore educational efforts concerning disputes, and encourages consumers to check their credit reports annually. These recommendations are helpful. However, in light of the findings discussed above, I support two additional actions:

⁶ FINAL REPORT at 17 (Table 3).

⁷ In this study, the study assistants informed the consumers about the results of their dispute, including whether the credit reporting agencies removed or modified the disputed information in the consumers' credit report as requested. FINAL REPORT at 5-6. Few consumers who dispute information in their credit report have such assistance to help them wend their way through the credit reporting dispute process.

⁸ FINAL REPORT at 20 (Table 5).

⁹ FINAL REPORT at 21 (Table 6).

¹⁰ Credit scores span a range of integers, but many credit score users classify scores within certain ranges into *risk tiers*. A consequence of risk tiering is that one-point credit score change can move a consumer to a lower risk tier, potentially leading to cheaper credit. A 20-point change that does not involve crossing into a different risk tier, however, may have little practical impact on a consumer. See 2012 FACTA REPORT at iii.

¹¹ See Gary Rivlin, *The Long Shadow of Bad Credit*, N.Y. TIMES at BU1 (May 11, 2013), available at <http://www.nytimes.com/2013/05/12/business/employers-pull-applicants-credit-reports.html>.

- **Improving how CRAs inform consumers about the effects of credit errors, risk tiering, and corrections of erroneous information.** I recommend that the credit reporting industry provide consumers with more meaningful information to help them understand the effects of correcting disputed items. For example, consumer reporting agencies could provide interactive disclosure mechanisms, such as an immersive online dashboard, that would allow consumers to see how correcting a disputed piece of information would change their credit score and, in turn, the cost of credit and insurance. Regulators could also consider whether to require credit reporting agencies to provide such interactive disclosure mechanisms.
- **Assessment of rules concerning reinvestigation.** The final report suggests potential deficiencies in the information that consumers receive about reinvestigations of disputed information. I recommend that regulators consider examining whether credit reporting agencies are adequately complying with current law requiring that they provide consumers with information in writing about the results of their reinvestigation, and whether the rules governing CRAs' obligations to notify consumers about the results of reinvestigation should be more robust, so that consumers receive more meaningful information about the results of reinvestigations, including the rationale for the CRAs determinations.¹²

* * * * *

The Commission's final report concludes a research project that sheds much needed light on credit reporting accuracy and dispute resolution. Consumers, the credit reporting industry, regulators and policymakers are better off as a result of this research. I stand ready to work with the credit reporting industry, policymakers, our sister regulators, consumer advocates and other stakeholders to take further action on the final report's findings.

¹² The Commission's investigations have led to at least two enforcement actions in which CRAs were alleged to have failed to comply with the FCRA's requirement to notify consumers of the results of reinvestigations. See *United States v. TeleCheck Svcs., Inc.*, at ¶¶ 21, 27, Case No. 1:14-cv-00062 (D.D.C. Jan. 16, 2014), available at <http://www.ftc.gov/sites/default/files/documents/cases/140116telecheckcmpt.pdf>; *United States v. Certegy Check Svcs., Inc.*, at ¶¶ 21-22, 32, Case No. 1:13-cv-01247 (D.D.C. Aug. 15, 2013) (complaint), available at <http://www.ftc.gov/sites/default/files/documents/cases/2013/08/130815certegycmpt.pdf>. The Commission reached settlements with the defendants in both cases. See FTC, *TeleCheck to Pay \$3.5 Million for Fair Credit Reporting Act Violations* (Jan. 16, 2014) (press release), available at <http://www.ftc.gov/news-events/press-releases/2014/01/telecheck-pay-35-million-fair-credit-reporting-act-violations>; FTC, *Certegy Check Services to Pay \$3.5 Million for Alleged Violations of the Fair Credit Reporting Act and Furnisher Rule* (Aug. 15, 2013) (press release), available at <http://www.ftc.gov/news-events/press-releases/2013/08/certegy-check-services-pay-35-million-alleged-violations-fair>.