



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Fair Credit Reporting Act  
Complaint Referral Program  
Privacy Impact Assessment

September 2004

## INTRODUCTION

To further its consumer protection law enforcement mission and its role as a clearinghouse for identity theft victim complaints, the Federal Trade Commission ("FTC") collects and maintains complaints from consumers, including complaints about the accuracy or completeness of consumers' credit files.<sup>1</sup> On December 4, 2003, President Bush signed into law the Fair and Accurate Credit Transactions Act of 2003, P.L. 108-159 ("FACTA" or "the Act"), which makes sweeping changes and additions to the Fair Credit Reporting Act ("FCRA"). Section 313 of the FACTA, codified at Section 611(e) of the FCRA, 15 U.S.C. § 1681i(e), directs the FTC to compile certain complaints related to the accuracy and completeness of information in the credit files of the nationwide consumer reporting agencies or repositories ("repositories") – Equifax, Experian, and Trans Union – and to transmit them to each repository involved. It requires the repositories to review each complaint to determine whether they have met their legal obligations with respect to the subject matter of the complaint and to report back to the FTC on the determinations and actions taken.

The FCRA Complaint Referral Program implements the FTC's statutory obligations under Section 611(e) of the FCRA. To implement the Program, the FTC made several modifications to its existing consumer complaint system. Two of these modifications are particularly relevant to consumer privacy: (1) eligible complaints about the accuracy or completeness of consumers' credit files are compiled and transmitted to the repositories involved, and (2) the FTC collects Social Security numbers on its general complaint forms from those consumers whose complaints concern the accuracy or completeness of their credit files so that their complaints may be eligible for referral to the appropriate repository.<sup>2</sup> As explained below, the FTC has taken steps to mitigate against the privacy risks associated with these modifications.

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<sup>1</sup> Section 6(a) of the FTC Act, 15 U.S.C. § 46(a), authorizes the Commission to compile information concerning and to investigate business practices in or affecting commerce, with certain exceptions. The Identity Theft and Assumption Deterrence Act of 1998, 18 U.S.C. § 1028 note, mandates the Commission's collection of identity theft ("IDT") complaints. These collections have been reviewed and approved by OMB (OMB Collection 3084-0047) in accordance with the Paperwork Reduction Act.

<sup>2</sup> Consumers are not required to provide their Social Security numbers. Rather, the complaint collection forms give them the option to provide their Social Security numbers. The FTC will not, however, transfer to the repositories any complaints that do not contain Social Security numbers. See discussion at p. 3, *infra*.

## SYSTEM OVERVIEW

The FCRA Complaint Referral Program requires several modifications to the FTC's existing consumer complaint system, the Consumer Information System ("CIS").<sup>3</sup> The FTC conducted a privacy impact assessment to determine whether the Program raises any consumer privacy issues.<sup>4</sup>

## ANALYSIS

### 1. The Information That Will Be Collected (Nature and Source)

The existing CIS complaint forms collect personal information such as name, address, phone number, email address, and age or age range that consumers voluntarily submit, along with the subject matter of their complaint and information about the company or entity complained about. For complaints about the accuracy or completeness of the consumer's credit files, the FTC determined that several additional categories of information should be collected to implement Section 611(e)'s mandate regarding complaint referral: (1) whether the consumer had disputed such inaccuracy or incompleteness with the repository; (2) if so, whether the dispute was reported at least 45 days prior to the complaint made to the FTC; and (3) the consumer's Social Security number. The FTC modified its CIS complaint forms to allow consumers to submit this information.<sup>5</sup>

The FTC collects such information directly from consumers, who may provide it by using the FTC's online consumer complaint forms; by calling the FTC's telephone counselors; or by submitting a complaint by mail. Complaints are entered into the CIS database.

### 2. Why the Information Is Being Collected (Purpose)

The FTC is collecting the additional information so that the FTC and the repositories may each fulfill their respective obligations under Section 611(e). That provision requires the FTC to

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<sup>3</sup> The FTC collects general consumer complaints through its CIS complaint form. It collects identity theft complaints through a separate IDT complaint form. The Complaint Referral Program requires modifications only to the online CIS complaint form and the data collection form used at our call center. It also requires that all eligible complaints (whether collected through the CIS or IDT forms) be transmitted to the appropriate repository.

<sup>4</sup> This privacy impact assessment is limited to the changes made for the Program, and does not cover the existing consumer complaint system. The FTC also conducted a privacy impact assessment on the existing system.

<sup>5</sup> The IDT complaint form already collects Social Security numbers, and will not be modified for the Complaint Referral Program. FTC staff manually reviews IDT complaints to identify any that include complaints about accuracy and completeness of the consumer's credit file.

compile and transmit consumer complaints about the accuracy or completeness of their credit files to the appropriate repository. It requires each repository to (1) review each complaint to determine whether the repository has met its legal obligations under the FCRA with respect to the complaint; (2) provide reports on a regular basis to the Commission regarding the determinations and actions taken upon such review; and (3) maintain records regarding the disposition of each such complaint.

The Commission staff determined that the additional information may be necessary for the repositories to conduct their review of and report on the complaints received. In particular, Social Security numbers will assist the repository involved to accurately and efficiently match the consumer complaint to its files to determine whether it has met its FCRA obligations. The FTC considered not collecting Social Security numbers, but determined that there were significant inefficiencies and costs associated with inaccurate matching of consumers' credit files if Social Security numbers were not collected. As explained in Section 6, below, the FTC encrypts consumers' Social Security numbers upon their entry into its database.

### **3. The Opportunities Individuals Will Have to Decline to Provide Information or to Consent to Particular Uses of the Information and How Individuals Grant Consent**

All complaint information provided by consumers is voluntary. Consumers may choose to submit some, all, or none of the information requested by the FTC's complaint forms. Through notices available on the online complaint forms and provided by telephone counselors, the FTC informs consumers that the information collected is not mandatory, but that if they do not provide certain information, the complaint may not be eligible for referral to the appropriate repository. The FTC Privacy Policy also informs consumers that any information they submit in connection with a complaint is voluntary.

### **4. Intended Uses of the Information Collected**

The FTC uses the information collected to identify eligible complaints for transmittal to the repositories involved – those complaints that concern the accuracy or completeness of the consumer's credit file and that consumers appear to have previously reported to the repository, and that provide the consumer's age or age range and Social Security numbers for accurate identification. In addition, the FTC continues to review and use such complaints for its own law enforcement purposes.

### **5. With Whom the Information Will Be Shared (Disclosures)**

The FTC discloses eligible complaints to the repositories involved in a consumer's dispute (that have entered into confidentiality agreements with the FTC, see Section 6, below) so that they may review the complaints, take appropriate action, and report back to the Commission on their determinations, as required by Section 611(e). In addition, the repositories share some of the complaints with consumer reporting agencies that maintain consumer files within the systems operated by the repositories ("associated consumer reporting agencies" or "associated CRAs"). The repositories share with each associated CRA only those complaints that pertain to

consumer files owned by that associated CRA, and only share complaints with an associated CRA that has entered into a confidentiality agreement with the FTC.

As with other complaints filed with the FTC and as noted in the FTC Privacy Policy, the FTC may disclose complaint data to appropriate employees and authorized contractors for law enforcement or technical support purposes, as well as to other authorized law enforcement agencies, and as otherwise authorized by the Privacy Act.

## **6. Security (Administrative and Technological Controls, Including Maintenance and Disposal)**

The FTC follows all information technology requirements and procedures required by federal law to ensure that information is appropriately secured. The FTC encrypts consumers' Social Security numbers upon their entry into the CIS database; the numbers are not viewable by FTC employees, contractors, or phone counselors that may search or query the database. Further, the online consumer complaint forms use the Secure Socket Layer ("SSL") protocol to protect information in transmission to the FTC.<sup>6</sup>

The FTC is taking appropriate steps to ensure that complaint data is protected when it is sent to the repositories and safeguarded against interception. Initially, the FTC will export appropriate complaints for each repository to password-protected files on password-protected compact discs. The appropriate compact discs will be delivered to each repository, and the passwords will be separately conveyed to the recipient to help prevent or thwart unauthorized access in the case of data theft or loss. Ultimately, the data will be transferred through Web-based methods that allow the repositories to download the protected files through a secure connection.

In addition to these technical safeguards, the FTC has also entered into complaint referral agreements and complaint data confidentiality agreements with the repositories and the associated CRAs. In their confidentiality agreements, each repository has agreed to keep all complaint data confidential and safeguarded against unintentional disclosures. Specifically, the repositories have agreed not to disclose the complaint data to anyone other than their own employees, consultants, and contractors, as well as those associated CRAs that have entered into both a complaint referral agreement and complaint data confidentiality agreement with the Commission. The repositories also have agreed that their employees, consultants, and contractors are bound to maintain the confidentiality of the complaint data, and to secure it in a manner that minimizes the possibility of unintentional disclosure. Finally, each repository has agreed to use the complaint data only to assist consumers regarding information in their files and for other uses consistent with the FACTA and the Identity Theft Act. In their confidentiality agreements, the associated CRAs have agreed to essentially the same provisions.

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<sup>6</sup> As part of the existing consumer complaint system, complaints that are covered by the Complaint Referral Program are also subject to the security measures that protect the database, such as encryption of sensitive fields (e.g., Social Security number), firewalls, user access controls, and regular monitoring, testing, and evaluation, including risk assessments.

The Commission retains any consumer complaint letters for at least a year, and may retain automated information indefinitely, subject to earlier deletion, as authorized.

## **7. Privacy Act**

The consumer complaint system is covered by two existing Privacy Act System of Records notices, available at 57 FR 45678 (Oct. 2, 1992) (consumer complaint system generally) and 64 FR 57887 (Oct. 27, 1999) (IDT portion). In compliance with the Act, the CIS and IDT complaint forms contain the required notice of authority, purpose, routine uses, and whether the collection is voluntary or mandatory. They also contain links to the FTC's Privacy Policy.

## **8. Other Privacy Considerations and Analysis**

The FTC identified two privacy risks associated with the FCRA Complaint Referral Program and took steps to mitigate those risks. First, the FTC collects Social Security numbers on its general CIS complaint form to facilitate this program, and we recognize that there are privacy risks associated with collecting such information. However, as discussed above, the FTC determined that Social Security numbers would greatly assist the repositories to accurately and efficiently locate information about the consumer in their databases so that they may fulfill their obligations under Section 611(e) of the FCRA. Collecting Social Security numbers also will reduce the likelihood that repositories might review a consumer's complaint and determine that a change in the file is warranted, but inadvertently change the wrong consumer's file. The FTC already collects Social Security numbers for identity theft-related complaints and has procedures in place to safeguard this data. These procedures include encrypting the Social Security number upon entering the complaint into the database, which prevents users of the database from seeing Social Security numbers when they search or query the database (e.g., in the course of law enforcement investigations).

Further, the FTC has taken steps to minimize the collection of Social Security numbers on its general CIS complaint form when such data is not needed. The FTC provides notices available at the point of collection (whether via the CIS online complaint forms or through a telephone counselor) that advise consumers that the Social Security number should only be provided if a complaint concerns the accuracy or completeness of the consumer's credit file. In the event that a consumer disregards this notice and provides a Social Security number in connection with a complaint that does not concern the accuracy or completeness of the consumer's credit file, or is otherwise ineligible for transmittal to a repository, the FTC has programmed the revised CIS complaint forms to not save the Social Security number.

Second, the FTC recognizes that there could be privacy risks associated with transmitting consumer complaints to the repositories. To address these risks, the FTC (1) identifies and only transmits eligible complaints to the repositories; (2) takes steps to safeguard the complaint data when transmitting it to the repositories; and (3) has entered into agreements with the repositories and the associated CRAs that require administrative and procedural safeguards to protect the complaint data and restrict its use.

Prepared for the Business Owner of the System, the Bureau of Consumer Protection, by

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