I. Introduction

Chairman McCaskill and members of the Subcommittee, my name is Maneesha Mithal, and I am the Associate Director for the Division of Privacy and Identity Protection at the Federal Trade Commission ("Commission" or "FTC").[1] I appreciate the opportunity to appear before you today to discuss the Commission's most recent Report to Congress under Section 319 of the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act"), concerning the accuracy and completeness of consumer credit reports.[2]

The FACT Act was enacted in 2003 to provide consumers with several new rights and protections related to their credit reports.[3] Consumer credit reports, which contain data compiled and maintained by consumer reporting agencies ("CRAs"), are used to make critical decisions about the availability and cost of credit, insurance, employment, and housing. The FACT Act amended the Fair Credit Reporting Act[4] ("FCRA"), a statute enacted to (1) prevent the misuse of sensitive consumer information by limiting recipients to those who have a legitimate need for it; (2) improve the accuracy and integrity of credit reports; and (3) promote the efficiency of the nation's banking and consumer credit systems.

Today, data compiled and maintained by CRAs is used to make critical decisions about the availability and cost of various consumer products and service, including credit, insurance,

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[1] While the views expressed in this statement represent the views of the Commission, my oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or any individual Commissioner.

[2] Fair and Accurate Credit Transactions Act of 2003, Pub. L. No. 108-159.

[3] Among other things, the FACT Act allows consumers to place fraud alerts with the CRAs, notifying potential creditors that they may have been victims of identity theft (§ 112), to obtain free annual credit reports from the national CRAs (§ 211) and to dispute information on their credit reports directly with information furnishers (§ 312).

[4] 15 U.S.C. §§ 1681-1681x.

employment and housing. Credit reports are often used to evaluate the risk of future nonpayment, default, or other adverse events. For example, complete and accurate credit reports enable creditors to make informed decisions, benefitting both creditors and consumers. Errors in credit reports, however, can cause consumers to be denied credit or other benefits, or pay a higher price for them, and may lead credit issuers to make inaccurate decisions that result in the issuers declining credit to a potentially valuable customer or issuing credit to a customer who otherwise would not have been approved. Therefore, the FCRA serves the vital goals of promoting informed decision-making by lenders and protecting consumers from credit-related determinations based on erroneous information.

The FCRA, as modified by the FACT ACT, imposes numerous requirements to improve the accuracy of credit reports, including that CRAs make reasonable efforts to assure the "maximum possible accuracy" of credit reports,[5] and maintain procedures through which consumers can dispute and correct inaccurate information in their consumer reports.[6] In addition, the FCRA imposes obligations on those who furnish information about consumers to CRAs ("furnishers") and on users of credit reports, such as entities extending credit. For example, if a furnisher determines that information it provided to a CRA is incomplete or inaccurate the furnisher must promptly notify the CRA and provide any corrections that are necessary to make the information complete and accurate. In addition, if a user of a credit report takes an adverse action against a consumer based on information in a consumer report – such as a denial of credit or employment – the user must provide an adverse action notice to the

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[5] *Id.* § 1681e(b)

[6] *Id.* § 1681i (a)-(d).

consumer, which explains that the consumer can obtain a free credit report from the CRA that provided the report and dispute any inaccurate information in the report.[7]

In order to assess the accuracy of credit reports, and pursuant to Section 319 of the FACT Act, the FTC has been conducting an ongoing study of the accuracy and completeness of consumer credit reports.[8] In December 2012, the Commission submitted to Congress its fifth interim report pursuant to this provision. This testimony describes the FTC study and its results. It then discusses the Commission's efforts, through law enforcement and consumer and business education, to improve the accuracy of credit reports.

II. The FTC Study

The Commission's accuracy study was the first national study designed to engage all the primary groups that participate in the credit reporting and scoring process: consumers, lenders, data furnishers, the Fair Isaac Corporation ("FICO"), and the CRAs. The FTC contracted with a research team, including members from the University of Missouri, St. Louis ("UMSL"), the University of Arizona ("UA"), and FICO. UMSL and UA interacted with consumers through study associates, who were trained to review consumer reports. The study called for randomly-selected consumers to review their credit reports with a study associate, who helped them identify potential errors.

Ultimately, 1,001 consumers reviewed a total of 2,968 credit reports (approximately three per participant). All study participants gave their permission to have study associates access their credit reports from each of three national CRAs as well as their FICO credit score. Then, each participant engaged in an in-depth review of his or her credit reports with a study associate.

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[7] *Id.* § 1681m(a).

[8] Pub. L. No. 108-159, § 319.

The review focused on identifying potential errors that could have a material effect on a person's credit standing. Any participant that identified a potentially material error on his or her credit report was then encouraged to use the FCRA dispute process to challenge any potentially erroneous information.

After the dispute process was complete, study participants' credit reports were drawn again and reexamined. If changes had been made to the reports, then the errors were treated as confirmed and a new FICO score based on the changes was obtained. This process allowed a determination of which reports contained confirmed errors and the degree to which any error had affected the consumer's credit score.

The study found that of the 1,001 consumers who participated in the study, 262 (26 percent) reported a potential material error in one or more of their three reports and filed a dispute with at least one CRA. Most of the errors reported by participants resulted in at least some modification to their credit reports, which, as noted, the study treated as confirming the errors. Of the 262 participants who reported an error, 206 (79 percent) were successful in having some change made to their report in response to their dispute, which corresponds to 21 percent of all of the study participants.

In addition to examining how many consumers had confirmed errors on their reports, the study also looked at what effect those errors had on consumers' credit scores. One hundred and twenty-nine consumers, or 13 percent of the total study participants and nearly half (49%) of those that reported a potential material error, had an error on their credit report that resulted in a change in their credit score. The main types of confirmed material errors found in this study were errors involving the consumers' credit accounts with businesses, such as incorrect balances or late payments, and past-due accounts referred to collection agencies. Such errors can potentially produce significant differences in consumers' credit scores. Indeed, the study found that five percent of the study participants had their credit risk tier decreased as a result of having errors corrected. In other words, one in 20 of the study participants had an error on his or her credit report that lowered the credit score to a degree that the error likely made getting credit more expensive. For example, consumers with errors of this magnitude would likely pay higher interest rates on auto loans or mortgages than the rates to which their accurate credit score would normally entitle them.

The study focused exclusively on identifying the level of accuracy in the credit reporting system and its impact on consumer credit scores. Under the FACT Act, the Commission's final report to Congress on credit report accuracy is due in 2014.

It is important to note that CRAs cannot guarantee 100 percent accuracy; however, existing law requires credit bureaus to have reasonable procedures to assure "maximum possible accuracy" of credit reports.[9] The Commission is committed to ensuring that obligation is met.

III. FTC Efforts to Increase Accuracy of Consumer Credit Reports

The Commission recognizes the importance of accurate and complete credit reports, both to businesses that use them to make decisions and to the consumers who are affected by those decisions. The FTC focuses its efforts to improve credit reporting accuracy on two main areas: enforcement and education.

A. Enforcement

Vigorous enforcement of the FCRA is a high priority for the Commission. In the last decade, the Commission has brought over 30 actions to enforce the FCRA against CRAs, users of consumer reports, and furnishers of information to CRAs. It has recently undertaken several

[9] 15 U.S.C. § 1681e(b)

actions to enforce the accuracy provisions of the FCRA. The Commission recently sued and obtained a stipulated final judgment and order against HireRight Solutions, Inc. (HireRight), an employment background screening company that provides consumer reports containing information about prospective and current employees to companies nationwide.[10] The Commission charged that HireRight failed to take reasonable steps, such as expunging criminal records, to ensure that information in the reports was accurate and reflected current updates. In addition, the Commission alleged that HireRight failed to prevent the same criminal offense information from being included in a consumer report multiple times, failed to follow reasonable procedures to prevent obviously inaccurate consumer report information from being provided to employers, and in numerous cases included the records of the wrong person. The FTC alleged that these failures led to consumers being denied employment or other employment-related benefits. The FTC's stipulated order imposed a $2.6 million civil penalty against the company and enjoins HireRight from violating the FCRA.

The Commission has also taken action against a company that provided inaccurate information to CRAs. Last year, the Commission sued and obtained a consent decree against Asset Acceptance, LLC[11] ("Asset Acceptance"), one of the nation's largest debt buyers. Asset Acceptance buys unpaid debts from credit originators such as credit card companies, health clubs, and telecommunications and utilities providers and attempts to collect them. Asset Acceptance has purchased tens of millions of accounts for pennies on the dollar. It targets

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[10] *United States v. HireRight Solutions, Inc.*, No. 1:12-cv-01313 (D.D.C. filed Aug. 8, 2012) (stipulated final order), *available at* http://www.ftc.gov/opa/2012/08/hireright.shtm. *See also In re Filiquarian Publishing, LLC*, FTC File No. 112 3195 (May 1, 2013) (consent order), available at http://www.ftc.gov/opa/2013/01/filiquarian.shtm.

[11] *United States v. Asset Acceptance, LLC.*, No. 8:12-CV-182-T-27EAJ (M.D. Fla. filed Jan. 30, 2012) (stipulated final order), *available at* http://www.ftc.gov/opa/2012/01/asset.shtm.

accounts that other collectors have pursued and are more than a year past due, and in some cases attempts to collect on debts that are over ten years old. The Commission alleged, among other things, that Asset Acceptance was providing information to CRAs that it knew or had reasonable cause to believe was inaccurate. The Commission's consent order imposed a $2.5 million judgment for Fair Debt Collection Practices Act and FCRA violations and prohibits the company from violating the FCRA or the Fair Debt Collection Practices Act.

The FTC also takes proactive steps to help ensure that companies are aware that they are functioning as CRAs and are subject to the FCRA. For example, the Commission staff conducted "test shops" of dozens of information brokers to see if they would be willing to sell consumer information for employment, credit, or insurance purposes, in which case they would then fall within the definition of a CRA, and be subject to the FCRA. [Yesterday], the Commission issued warning letters to ten companies that appeared willing to sell their consumer information for these FCRA-covered purposes without complying with the FCRA's requirements, including the accuracy and dispute requirements discussed above.[12] The letters to the companies describe the FCRA's requirements and urge the companies to review their business practices to ensure their compliance with the law.

Similarly, last month the Commission issued warning letters to the operators of six websites that share information about consumers' rental histories with landlords. The letters informed the website operators that they may be subject to the requirements of the FCRA.[13] Among the requirements cited in the letters are the companies' obligation to protect the privacy of tenants whose information they collect, including by ensuring that those requesting information about tenants have a legitimate reason to acquire it. The letters reminded the

[12] [Cite to press release.]
[13] *Available at* http://www.ftc.gov/opa/2013/04/tenant.shtm.

companies of their obligation to ensure that the information they provide is accurate, to give consumers a copy of the information about them on request, and to allow consumers to dispute information they believe is inaccurate. The letters also noted that the companies must notify landlords of their obligations if using the data to deny housing to a tenant, and to notify the sources of their information of the requirement that they provide accurate information.[14]

B. Consumer and Business Education

In addition to bringing enforcement actions against CRAs and information furnishers, the FTC works to educate consumers and businesses about consumer reports, credit scores, and their rights and obligations under the FCRA.[15] Consumers are often in the best position to determine whether their credit reports are accurate, and it is important that they regularly obtain and review their free annual credit reports. If consumers find errors in their reports, they may dispute those errors with either the CRA that reported it or the furnisher that provided the information. The Commission has produced a number of publications to assist consumers through this process.

For example, the Commission's publication, *Disputing Errors on Credit Reports*,[16] explains the importance of accurate credit reports in determining the price and availability of credit. This publication instructs consumers on how to obtain their free annual credit reports, advises them of other times they may be entitled to free credit reports, and provides detailed instructions on how to dispute any errors found, including a sample letter to be used. Another

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[14] Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, the FTC now shares enforcement authority with the Consumer Financial Protection Bureau ("CFPB") with respect to credit report accuracy requirements. In addition, last year, the CFPB issued regulations that allow it to supervise CRAs with more than $7 million in annual receipts from consumer reporting activities, which includes the authority to examine issues relating to credit report accuracy.

[15] *See generally* http://www.consumer.ftc.gov/topics/credit-and-loans.

[16] *Available at* http://www.consumer.ftc.gov/articles/0151-disputing-errors-credit-reports.

publication explains how credit scoring works and how it is used by lenders and insurance companies.[17] The Commission also offers videos directing consumers to annualcreditreport.com to obtain their free annual credit reports.[18] Finally, through the Commission's Legal Services Collaboration,[19] the agency is disseminating consumer education materials to some of our nation's most vulnerable consumers.

Business education is also a priority to the FTC. The Commission has developed and distributed free guidance relating to compliance with the FCRA, including *Credit Reports: What Information Providers Need to Know*,[20] which informs businesses that provide information to CRAs about their obligations to provide accurate information and to update and correct previously submitted information. This publication, as well as other business education materials, are available through the FTC's Business Center website, which averages one million unique visitors each month.[21] The Commission also hosts a Business Center blog,[22] which has featured topics related to credit reports, including a post on the *HireRight* case that discusses CRAs' obligations to ensure maximum possible accuracy in their credit reports.[23]

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[17] *How Credit Scores Affect the Price of Credit and Insurance*, *available at* http://www.consumer.ftc.gov/articles/0152-how-credit-scores-affect-price-credit-and-insurance.

[18] *See generally* http://www.consumer.ftc.gov/media.

[19] Through this program, the FTC is working with legal services providers to distribute consumer education materials and gather complaints about pernicious practices affecting at-risk and indigent communities.

[20] *Available at* http://business.ftc.gov/documents/bus33-credit-reports-what-information-providers-need-know.

[21] *See generally* http://business.ftc.gov.

[22] *See generally* http://business.ftc.gov/blog.

III. Conclusion

Thank you for the opportunity to discuss the Commission's study on the accuracy of consumer credit reports. We look forward to continuing to work with Congress and this Subcommittee on this important issue.

[23] *Where HireRight Solutions went wrong, available at* http://business.ftc.gov/blog/2012/08/where-hireright-solutions-went-wrong.