



Everyone's Equal Credit Opportunity

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May 22, 2006

VIA ELECTRONIC MAIL

Jennifer J. Johnson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket No. R-1250

Office of the Comptroller of
the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Attn: Public Information, Docket No. 06-04

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attn: No. 2006-06

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RIN 3064-AC99

Federal Trade Commission
Office of the Secretary
Room 159-H (Annex C)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Ladies and Gentleman:

Pay Rent, Build Credit, Inc., dba PRBC[®], appreciates the opportunity to submit comments in response to the request for comment published in the Federal Register on March 22, 2006 jointly by the Office of the Comptroller of the Currency ("OCC"), Board of Governors of the Federal Reserve System ("Board"), Federal Deposit Insurance Corporation ("FDIC"), Office of Thrift Supervision ("OTS"), the National Credit Union Administration ("NCUA"), and the Federal Trade Commission ("FTC") (together, the "Agencies") on the Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies ("CRAs") Under Section 312 of the Fair and Accurate Credit Transactions Act ("FACT Act") ("ANPR") (71 Fed. Reg. 14419).

PRBC commends the Agencies in their efforts to address the accuracy, integrity, and completeness of consumer information provided in consumer credit reports, and the consumer dispute processes that cover the credit information under the FCRA and FACTA. PRBC submits this comment to provide additional information in response to Question A1 which asks for a description of “problems that may impair the accuracy and integrity of information furnished to consumer reporting agencies.” PRBC addresses in this comment the omission of potentially significant information that adversely affects consumers, particularly those who have limited credited histories with the traditional credit bureaus and those consumers trying to rebuild a positive credit history.

About PRBC

Founded in March 2002, PRBC is a consumer reporting agency (commonly known as a credit bureau) that was launched to support risk based credit and insurance pricing, and to end the socio-economic injustice of missing positive payment information from so-called “traditional” credit reports and scores.

PRBC aggregates, stores, scores, and reports payments for common credit-like obligations that most adult individuals, households, and business owners¹ make each month such as for rent or a mortgage, mobile home, auto loan, commercial lease, business loan, parking, self storage, rent to own appliances and furniture, utilities, phone service, cable, satellite, ISP, insurance, student loan, alimony and day care. PRBC also accepts and reports data on regular remittances made to loved ones in another country and payday loan repayment data. PRBC does not score payday loan payments however. PRBC displays payday loan repayment data in a separate section of PRBC Reportssm that illustrates a consumer’s willingness and ability to repay these short-term obligations as agreed, or not, potentially enabling them to migrate to more affordable credit alternatives.

PRBC enables consumers and business owners to build their own PRBC Bill Payment History and Bill Payment Scoresm (BPSsm) based on their past three years of payments by giving them a choice, an equal opportunity, and the tools necessary to do so. A PRBC Report and BPS can be accessed electronically directly from PRBC or from an authorized reseller² with a consumer’s or business owner’s permission, just like a report and score from any of the “big 3” credit bureaus, Equifax, Experian, and TransUnion, whenever a credit report and score are used to assess their creditworthiness.³

However, unlike the “big 3” credit bureaus, PRBC does not charge consumers or small business owners to access their own report, nor does it sell their identifying information or payment data to solicitors.

PRBC Reports and the BPS are designed to be used to supplement a traditional credit report and score if any exists, or in their absence to provide a more complete and accurate picture of an applicant’s creditworthiness. The PRBC service provides lenders and service providers with a unique opportunity to advise their applicants to proactively demonstrate their creditworthiness before they apply or if they are rejected, so that valuable and predictive data that is often missing from traditional reports and scores can be counted in the applicant’s favor. For more information about PRBC Reports and the BPS, see Attachment A to this Comment.

The Missing Data Problem

The problem of missing positive payment information has an unintentional but distinctly unfair and negative impact on two groups of consumers when they apply for housing, credit, insurance, utility hook-ups, telecom service, and employment. The first group includes those who pay their regular bills on time such as rent, utilities, phone, and insurance, but who have chosen not to use so-called traditional forms of credit to live beyond their means. While this category of consumers are fiscally responsible and otherwise good credit risks, these consumers often have little or no payment histories in the “big 3” credit bureaus. Ironically, having no positive or negative credit history in one or more of the traditional “big 3” credit bureaus has the same effect as having bad credit when a traditional report and score are used to assess an applicant.

The second group of consumers that are unfairly and negatively impacted by missing positive payment information are those who have defaulted on credit obligations in the past, but who are rehabilitated and have paid their bills on time since then. This group is comprised of those consumers whose past credit problems are a result of circumstances beyond their control such as illness, loss of employment, or divorce, and those who have defaulted on their credit obligations because of moral hazard (*i.e.* they misused credit to live beyond their means). In both cases, their so-called “traditional” credit reports and scores are frozen in time and are likely outdated. The consumers’ inability to show they have paid their bills on time since then prevents them from ever recovering from prior events beyond their control or past financial management mistakes.

The unintended yet distinctly unfair and negative impact of missing positive payment data for these two groups of consumers is that: i) consumers who make these payments on time do not have a complete and accurate record of payment that can be accessed electronically or scored, ii) their creditworthiness is difficult to accurately assess by housing providers, lenders, insurance, utility and telecom providers, as well as by employers, iii) they often are required to post security deposits for utility hook-ups and phone service, and iv) because they often have lower credit scores than they should, they pay more for housing, credit, and insurance than they deserve, making it difficult for them to build assets and to secure their financial futures.

The problem of missing positive payment information also makes it difficult for authorized users of credit reports to accurately assess applicants, price loans and insurance offers, to compete for new business, and to securitize loans in the secondary markets made to borrowers with low- and no- FICO scores.

The estimated number of consumers who fall into these categories is large (*i.e.* there are approximately 35.7 million apartment renters⁴ and 15 million homeowners⁵ whose largest monthly payment is not reported). However, PRBC’s view is that when even one consumer is denied an equal opportunity to build credit and assets with on time monthly bill payments by a credit allocation system that effectively locks them out, that is one consumer too many.

In PRBC's view, the problem of missing information arises from three (3) primary factors: i) credit reporting in the United States is entirely voluntary on the part of creditors and service providers which is to say that they are not required to report, ii) those creditors and service providers that could report but choose not to are often discouraged from doing so because the "big 3" credit bureaus sell their customers' information to their competitors for marketing purposes facilitating "poaching" of their best customers, borrowers, and/or depositors, iii) the "big 3" credit bureaus only accept data from reliable sources that can report many files each month using a standardized format, leaving out many data sources. These factors combine to result in many of the common bills that consumers pay on time each month going unreported.

Recognizing that the problem of unreported positive payments was not an issue that could be solved by legislation for a variety of practical and logistic reasons, PRBC designed its unique and patent-pending⁶ service to solve this problem by: i) giving consumers and business owners a choice and an equal opportunity to voluntarily report their monthly payments subject to third party verification⁷, as well as the tools necessary to build a bill payment file and score that must be considered under the Equal Credit Opportunity Act whenever a credit bureau report is used to assess their credit worthiness, ii) not selling consumers' or business owners' information to mailing lists, thereby encouraging lenders and service providers to report to PRBC without fear of their best customers being "poached" by their competitors as a result, and iii) accepting bill payment data using a secure Internet connection from a larger landlord, lender, biller, or bill payment service of the consumers' choice such as their bank or credit union that they commonly use to pay their bills⁸, rather than depending on a landlord, lender or biller to report.

Solutions to the Missing Data Problem

PRBC advocates that the Agencies alleviate the problem of missing data, not by mandating full file reporting, but by increasing consumer awareness of their choice and equal opportunity to utilize self-reporting options such as PRBC. Mandatory full file reporting is neither necessary nor in the public's interest for the following reasons:

- 1) Consumers who pay on time and who want to build a file of positive payment information now have a choice, an equal opportunity, and the tools necessary to build their own file and score. They do not have to pay to view their own file, and they can control who gets access to it.
- 2) It would be difficult to implement uniform compliance with mandatory full file reporting and impossible to supervise enforcement - smaller creditors may not have the capability or capacity to report and the government could not possibly enforce compliance.
- 3) Mandated full file reporting of utilities has the potential to hurt low- and moderate-income individuals who have difficulty making ends meet and who should not have their credit history destroyed for being late on non-discretionary purchases such as utilities.
- 4) Mandatory reporting would invade privacy – credit bureaus sell consumer's names to mailing lists and charge consumers a fee to view it more than once a year.

PRBC supports a consumer's and business owner's efforts to self-report payments, and advocates that the government assures the right of any person or entity with a leasehold estate to an accurate, signed lease and a payment option that generates a paper trail or electronic receipt.

PRBC suggests that the Agencies not only include information about the big 3 credit bureaus in their consumer and business education publications, but also include references to non-traditional credit bureaus such as PRBC. Omitting information about self-reporting options from these publications only serves to perpetuate the missing data problem. Attachment B lists examples of the Agencies' relevant publications that are also posted in the Financial Education Resource section of PRBC's web site.

Sincerely,

Michael G. Nathans
Founder, Chairman & CEO
Pay Rent, Build Credit, Inc.

¹ PRBC enables a consumer with an SSN or ITIN and a business owner with an EIN to establish a PRBC bill payment history and Bill Payment Score.

² PRBC partnered with the National Credit Reporting Association (NCRA) to resell PRBC Reports and the Bill Payment Score to their hundreds of thousands of customers that have a permissible purpose to use credit reports. <http://prbc.com/main/about/prbc-20051003.php>

³ ECOA Subsection 202.6 (b) (6) Rules concerning evaluation of applications.

(b) *Specific rules concerning use of information.*

(6) *Credit history.* To the extent that a creditor considers credit history in evaluating the creditworthiness of similarly qualified applicants for a similar type and amount of credit, in evaluating an applicant's creditworthiness a creditor shall consider:

(i) The credit history, when available, of accounts designated as accounts that the applicant and the applicant's spouse are permitted to use or for which both are contractually liable;

(ii) On the applicant's request, any information the applicant may present that tends to indicate that the credit history being considered by the creditor does not accurately reflect the applicant's creditworthiness; and

(iii) On the applicant's request, the credit history, when available, of any account reported in the name of the applicant's spouse or former spouse that the applicant can demonstrate accurately reflects the applicant's creditworthiness.

⁴ Housing *Characteristics: 2000, Census 2000 Brief*, published by U. S. Census Bureau, October 2001.

⁵ *Credit Score Accuracy and Implications for Consumers*, December 17, 2002, Consumer Federation of America and National Credit Reporting Association. A stunning finding of this study is that under-reporting negatively affected approximately 33% of consumers studied who make consecutive on-time mortgage payments. It is estimated that closer to 15%- 20% of all on time mortgage payments in the U.S. are not reported to a credit bureau by the lender, thus disadvantaging approximately 15 million to 21 million homeowners.

⁶ Neither PRBC nor any other private-sector for-profit enterprise could have been expected to bring about needed change by entering a market that is monopolized by just three big companies, were it not advised by competent legal counsel that its service is novel, not obvious, and that claims directed at the particulars through patent applications would have an excellent chance of success. This is a case therefore, where the intellectual property laws of the United States have encouraged innovation and private-sector investment that solves a social and economic problem, that may not have happened otherwise.

⁷ To assure data quality, PRBC Verifications are performed by a National Credit Reporting Association (NCRA) member that has been FCRA-certified and that is a PRBC Affiliate. PRBC's NCRA Affiliates follow PRBC's Agreed Upon Procedures for Paper-based Verifications which are carefully designed to protect consumers from identity theft, and which meet and exceed Fannie Mae, Freddie Mac, and the FHA's standards for verifying non-traditional credit data and tradeline accounts.

⁸ The founders of PRBC received an opinion letter from the Federal Reserve Board of Governors, Division of Consumer and Community Affairs in March 1997, and a similar letter from the State of New York Banking Department in May 2003 stating that it is an innovative and responsive "community development service" under the Community Reinvestment Act when an institution uses its information reporting technology to assist its low- and moderate-income customers to build a credit history with their rental and other bill payments by reporting to a credit bureau such as PRBC.

Attachment A

The PRBC Bill Payment Score reflects a consumer's or small business owner's willingness and ability to pay on time consecutively, and takes into account many bill payment history factors to generate a score between 350 and 800. Consumers, small business owners, and automated underwriting systems alike can understand the simplicity and predictive power of the PRBC Report and BPS.

PRBC scores individual trade lines based on the length of history for the trade line type and the timeliness of payments made. The timeliness score is affected by slow and late payments, the number and severity of late payment(s), the account type, and the number of months since the most recent late payment. A late payment three months ago will impact the score more than a late payment five months ago.

The overall BPS is based on the number of trade lines scored and the weighted scores for those trade lines. Trade line scores are weighted to give certain trade line types greater impact on the score than others. For example, mortgage and rent payments are weighted higher than electric bill payments, which are weighted higher than furniture lease payments. In addition to the common credit obligations of most households such as rent and utilities payments, PRBC also collects and reports both positive and negative payday loan repayment data. On the advice of its consumer advocate advisors, PRBC does not score payday loan payments. PRBC displays payday loan repayment data in a separate section of PRBC Reports that illustrates a consumer's willingness and ability to repay these short-term obligations as agreed, or not, potentially enabling them to migrate to more affordable credit alternatives.

For illustration, a consumer who has made 12 consecutive on-time residential rent payments plus three utility trade line payments (i.e. electric, cable, and phone) would have a PRBC BPS 616. A PRBC BPS of 616 comprised of 12 months of consecutive on time payments for rent plus three other tradelines meets the FHA, Fannie Mae, and Freddie Mac underwriting guidelines for using non-traditional credit data to qualify an applicant with no credit file or score from any of the "big 3" for a mortgage loan. A consumer who has made these same payments for 24 months would have a BPS 689.

It is simple for a consumer or business owner to build their PRBC file and raise their PRBC BPS by paying more bills on time consecutively.

PRBC BPS Key Factors and Score Weighting:

- Length of Payment History - 20%
- Timeliness of Payments - 25%
- Severity of Late Payments - 10%
- Time since last Late Payment - 15%
- Number of Trade Lines - 10%
- Types of Trade Lines - 20%

To assure data security, quality, reliability, and to mitigate cost, PRBC accepts billing and payment data uploads directly from bill payment service providers, billers, and lenders using an XML format and a Secure Socket Layer Internet connection with 128 bit encryption.

PRBC assures the reliability and quality of historical data that is provided directly from consumers, by utilizing trained FCRA-certified specialists to verify SSN, ITIN, EIN, current address, historical lease, mortgage, utility, phone, cable, and other recurring bill payments, along with judgments and collection accounts. PRBC's procedures for historical verifications meet and exceed industry and regulatory standards for consumer and business credit.

Attachment B

Federal Reserve Publication Credit Histories and Records:

<http://www.federalreserve.gov/pubs/consumerhdbk/histories.htm>

FTC Publication Building a Better Credit Report:

<http://www.ftc.gov/bcp/online/pubs/credit/bbcr.htm>

Federal Reserve Publication Consumer Credit Protection laws:

<http://www.federalreserve.gov/pubs/consumerhdbk/>

HUD Publication Fair Housing and Equal Opportunity:

<http://www.hud.gov/offices/fheo/lending/index.cfm>

FTC Publication Credit and Your Consumer Rights:

<http://www.ftc.gov/bcp/online/pubs/credit/crdright.htm>