



August 31, 2006

Jennifer J. Johnson  
Secretary, Board of Governors  
Federal Reserve System  
20<sup>th</sup> Street and Constitution Av., NW  
Washington DC 20551

Re: Comment - Docket No. R-1255            RIN 3084-AA94  
Topic: Comment proposed rulemaking implementing Section 114 and 315 of the  
Fact Act (Red Flags Regulation) R-1255

Dear Ms. Johnson,

Westamerica Bank has read the proposed Red Flag Regulations that will amend the Fact Act. We would like to comment concerning the effect these rules would have both on our Banking customers and on Bank Operations if adopted.

First, as part of its CRA program, the Bank has been teaching Identity Theft Detection and Protection seminars to consumers for two years. These seminars are held throughout Central and Northern California (a copy of the seminar materials is enclosed). Through these seminars, the Bank has heard numerous “real life” stories of identity theft and has received a great deal of feed back from consumers on the frustrations they feel in trying to prevent this crime and “clean up” their credit after the crime has been committed. The Bank believes that by sharing the seminar participants’ comment that the “red flag” regulations could be amended to be more effective.

- Consumers feel that they lack effective tools to protect themselves against identity theft. They feel that shredding and protecting their private customer information is not adequate. Consumers who have been victimized by identity theft are frustrated because they have no information concerning how their private information was stolen, or when it was stolen. To exacerbate the problem, they also feel that they only learned of the theft well after the crime was committed and their credit damaged. These delays make the “clean up” process more expensive and time consuming. Eventually, when consumers do learn of the loss, both the Bank and the consumer have already been damaged and incurred a loss. The Red Flags regulations should focus on ways to alert the consumers as soon as possible. For example, if a consumer was notified each time their credit report was accessed the consumer could quickly determine if the access was authorized or was a result of someone attempting to open

a credit account in their name. This knowledge would empower the consumer to act quickly and alert the credit reporting agency and the Bank. The result of immediate notification would reduce losses for the consumers and reduce the amount of corrective action needed. While the cost of this notification would increase the cost of credit reports it would be small compared to the corresponding savings in losses to the consumer and losses to the Bank. Currently, vendors are charging consumers as much as \$150 per year for this notification services. Such costs are beyond the reach of low-income consumers and many seniors.

- Credit freezes are an effective tool in preventing identity theft, since limiting access to a credit report without effective authentication would make identity theft much more difficult. Seniors and low-income individuals have commented, in our seminars, that credit freezes could provide them excellent protection. This is an effective tool since both groups access credit on an infrequent basis. However, both groups have indicated that the current fees charged to establish credit freezes, the labor intensive notification processes to place credit freezes, and the limited duration of freezes are a significant deterrent. Notifying each credit reporting agency by special mailing, paying fees and having the freeze effective for a limited time period has deterred consumers from using this tool. Again, giving consumers tools that they could use to more easily protect themselves against identity theft is more effective than simply creating Red Flag indicators.
- We have found that the majority of identity theft losses are a result of consumers having information from their debit or credit cards being stolen and then “cloned” onto new cards by criminals. Criminals have been increasingly sophisticated in capturing card information, cloning cards and reusing cloned cards. Consumers frequently comment that upon discovering their card has been “cloned” that they find themselves in a helpless position. They have no knowledge of who or how their cards were “cloned” or how they can protect themselves in the future. The Bank has an equally difficult task in working with the consumer in sorting through the authorized and unauthorized transactions, issuing new cards and reimbursing the consumer for unauthorized transactions. While Red Flag regulations prescribe the necessity to detect such unauthorized “cloned” transactions, this is largely unnecessary and will not be an effectual requirement, since Bank’s already go to great lengths to protect themselves from these losses by quickly identifying “cloned” card transactions, canceling the cards and reissuing new cards. The Bank’s experience has been that the proposed Red Flag regulations are neglecting the much bigger issue that most identity theft instances are caused by data security breeches. These breeches are the result of unaffiliated companies and merchants. The epidemic of identity theft by “cloned” cards is not a result of the Bank’s failure to safeguard its information or having effective identify theft “red flags”. Until, the primary issue of data security is addressed Red Flag rules are simply window dressing. Such legislation should be delayed until a more comprehensive approach can be taken. This approach should include enhanced data protection oversight and tools that consumers can use to protect their valuable and sensitive private information.

Westamerica Bank is committed to helping its community protect itself against identity theft fraud and will continue to teach Identity Theft Prevention seminars. We hope that the proposed regulations will be amended to provide more effective tools for both the consumers and the Bank.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Scrip". The signature is written in a cursive style with a large initial "B".

Brian Scrip, VP/Compliance Manager  
Westamerica Bank