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August 31, 2009

Office of the Comptroller of the Currency  
250 E Street, SW, Mail Stop 2-3  
Washington, DC 20219  
Attention: Docket Number OCC-2008-0022

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
Attention: Docket No. R-1300

Mr. Robert E. Feldman  
Executive Secretary  
Attention: Comments  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
RIN 3064-AD40

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552  
Attention: OTS-2008-0026

Ms. Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314-3428  
Re: ANPR Part 717

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex C)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Re: Project No. R611017

To Whom It May Concern:

MasterCard Worldwide (“MasterCard”)<sup>1</sup> submits this comment letter in response to the Advance Notice of Proposed Rulemaking (“ANPR”) published by the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Trade Commission (collectively, the “Agencies”) in the *Federal Register* on July 1, 2009 relating to the Guidelines for Furnishers of Information to Consumer Reporting Agencies (“Guidelines”). MasterCard appreciates the opportunity to offer its comments on the ANPR.

The Agencies recently issued the Guidelines pursuant to Section 623 of the federal Fair Credit Reporting Act (“FCRA”). The Guidelines pertain to the requirement that furnishers have reasonable policies and procedures regarding the accuracy and integrity of information about consumers they provide to consumer reporting agencies (“CRAs”). The Guidelines define the term “integrity” to mean, among other things, that information a furnisher provides to a CRA about an account or other relationship with the consumer includes the information in the furnisher’s possession about the account or other relationship that the Agencies have: (i) determined that the absence of which would likely be materially misleading in evaluating the consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and (ii) specifically listed in the Guidelines (“List of Integrity Information” or “List”).

Currently, the Guidelines include only “credit limit, if applicable and in the furnisher’s possession” on the List. In light of the congressional debate leading up to the 2003 amendments to the FCRA, we understand why the Agencies may have felt the need to require furnishers to report an account credit limit in order for the information furnished to have “integrity.” We respectfully suggest, however, that the Agencies limit the List of Integrity Information to an account’s credit limit. When issuing the Guidelines, the Agencies recognized that it would not

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<sup>1</sup> MasterCard Worldwide (NYSE:MA) advances global commerce by providing a critical link among financial institutions and millions of businesses, cardholders and merchants worldwide. Through the company’s roles as a franchisor, processor and advisor, MasterCard develops and markets secure, convenient and rewarding payment solutions, seamlessly processes more than 16 billion payments each year, and provides industry-leading analysis and consulting services that drive business growth for its banking customers and merchants. With more than one billion cards issued through its family of brands, including MasterCard®, Maestro® and Cirrus®, MasterCard serves consumers and businesses in more than 210 countries and territories, and is a partner to 25,000 of the world’s leading financial institutions. With more than 24 million acceptance locations worldwide, no payment card is more widely accepted than MasterCard. For more information go to [www.mastercard.com](http://www.mastercard.com).

be possible for furnishers (or, we presume, the Agencies) to identify each piece of information that users of consumer reports (“Users”) may find material. We strongly agree with the Agencies’ conclusion.

Although the Agencies do not appear to intend to develop the List in a manner that provides a complete list of information necessary for furnishers to furnish with “integrity,” the Agencies do appear interested in determining whether they should generate an *incomplete* list of relatively minor pieces of information for furnishers to provide. We question whether the creation of such a list is the type of endeavor worthy of the Agencies’ time and resources. Indeed, a List comprised of relatively minor information only further complicates compliance for furnishers who provide information to CRAs in good faith while creating unusual enforcement issues. Specifically, a full file furnisher who dutifully and accurately provides significant amounts of information to CRAs—but not the relatively modest piece(s) of information on the List—may risk violating its regulatory requirements. Yet, an infrequent furnisher of only negative information who is careful to include the relatively modest information on the List may not have the same regulatory risk. This anomalous result is only compounded if the List increases with relatively insignificant information.

MasterCard is also concerned that the Agencies’ *ad hoc* approach to expanding the Integrity Information List from time to time creates uncertainty for purposes of future List management and furnisher compliance. It appears that the Agencies are relying on statistical models developed by a relatively small number of companies—perhaps even only one company—to determine the types of information that thousands of furnishers must provide CRAs. Would the Agencies issue another ANPR if statisticians from this company (or these companies) demonstrated to the Agencies that their models would be even more predictive of consumers’ creditworthiness if furnishers provided information regarding returned payments? The applicable interest rate on the account? The transaction velocity on the account? Specific details regarding the collateral securing the loan? The types of merchants at which the cardholder used his or her payment card? How close to the due date payments are received? The notion of maintaining, pruning, and/or expanding the List becomes a very difficult and arbitrary process the Agencies must manage with little or no indicia of why certain information is included in, or may in the future be included in, the List while other information is not. It also creates uncertainty for furnishers attempting to build long-term compliance programs that will not need revision on a relatively frequent basis.

With respect to the substance of the ANPR, it is not clear to us that the addition of an account opening date would make a material difference to existing scoring methodologies. We are aware that score developers generally include the length of a consumer’s credit history, including at a tradeline level, *but that occurs today without the requirement to furnish the information*. We are unaware of any evidence to suggest that mandating the furnishing of the account opening date would have a material change on the output of the scoring models relative to how those models evaluate the history of a tradeline today.

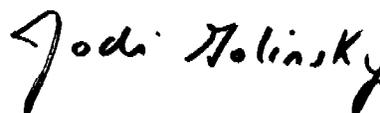
Finally, the Agencies are clearly aware that the process of furnishing information to CRAs is voluntary. We commend the Agencies for developing the Guidelines with this fact in mind. We caution the Agencies that at some point the compliance obligations associated with furnishing information to CRAs will cause a meaningful number of furnishers to exit the system.

It is not possible to identify the exact point at which the compliance obligations become too great for any particular furnisher, as each furnisher likely has differing compliance tolerances. We ask the Agencies to continue to keep this risk in mind as they determine whether and how to expand the List.

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Once again, we appreciate the opportunity to comment on the ANPR. If you have any questions concerning our comments, or if we may otherwise be of assistance in connection with this issue, please do not hesitate to call me at (914) 249-5978 or our counsel at Sidley Austin LLP in connection with this matter, Michael F. McEneney at (202) 736-8368 or Karl F. Kaufmann at (202) 736-8133.

Sincerely,

A handwritten signature in black ink that reads "Jodi Golinsky". The signature is written in a cursive, flowing style.

Jodi Golinsky  
Vice President &  
Regulatory and Public Policy Counsel

cc: Michael F. McEneney, Esq.  
Karl F. Kaufmann, Esq.