



September 17, 2004

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

**RE: Docket No. OP-1209**

On behalf of the nationwide consumer credit reporting agency members of the Consumer Data Industry Association (CDIA)<sup>1</sup> we provide the following comments in response to the Federal Reserve Board's request for information regarding investigations of disputed information reported to consumer reporting agencies. We appreciate the opportunity to provide comment.

CDIA's nationwide consumer reporting agency members have a long record of successful voluntary efforts to improve the process of reinvestigations. Our members' goal has always been to assure the success of the reinvestigation process required by the FCRA<sup>2</sup>, and also to preserve the integrity of the consumer information used to evaluate the safety and soundness of millions of lending decisions made each year.

Key to these efforts in the 1990s was the decision to develop a technology platform for purposes of electronically exchanging disputes submitted by consumers to consumer reporting agencies with data furnishers. This system, now called E-OSCAR-web<sup>TM</sup>, is a high-volume data exchange that is strategic to assuring that, in the context of 4 billion updates of data to our members' databases every month, consumer requests for reinvestigations are handled quickly and precisely.

Equally important has been the industry's commitment to data quality through the introduction of a standardized data format, with the latest version being Metro2. Data standards are essential to assuring the quality of incoming data reported to nationwide consumer reporting agencies and thus avoiding requests for reinvestigations in the first place. We discuss both of these voluntary programs below.

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<sup>1</sup> CDIA is an international trade association representing approximately 500 consumer information companies that are the nation's leading institutions in credit and mortgage reporting services, fraud prevention and risk management technologies, tenant and employment screening services, check fraud prevention and verification products, and collection services.

<sup>2</sup> 15 U.S.C. 1681 *et seq.*

## **FCRA and Automated Processing of Disputed Information:**

In Appendix 1 you will find an overview of the E-OSCAR-web™ which has been funded and operated by our nationwide consumer credit reporting agency members. Below is an update on the E-OSCAR-web™ now that the FACT Act has been enacted.

### *Fair and Accurate Credit Transactions Act of 2003<sup>3</sup> - Increased Reinvestigation Requirements – Increased Importance of E-OSCAR-web™*

With the enactment of the FACT Act nationwide consumer credit reporting agencies have had to make critical decisions about how to manage the reinvestigation process with thousands of data furnishers in the context of the likelihood of significant volume increases in consumer reinvestigations requests, and the various new data furnisher notification obligations.

The new FACT Act data furnisher notification requirements include the following:

- Notice of blocked information - Section 605B(b) requires that when a consumer reporting agency has blocked information in a consumer's file which resulted from the crime of identity theft (resulting from a consumer submitting an identity theft report), the consumer reporting agency must "promptly notify the furnisher of information identified by the consumer" and the date on which that information is blocked.
- Notice of the results of a reinvestigation – Section 611(a)(5)(A)(ii) requires a consumer reporting agency to "promptly notify the furnisher of that information that the information has been modified in or deleted from the file of the consumer."

The most practical means for nationwide consumer credit reporting agencies to administer these notifications is through *E-OSCAR-web™*.

The FACT Act also amended FCRA Section 612(a)(1) to establish a consumer's right to a free file disclosure once every twelve months upon request through a central source. Assuming that this new consumer right will result in a potentially significant increase in the volume of reinvestigation requests to data furnishers, nationwide consumer credit reporting agencies have had to take steps to ensure that the *E-OSCAR-web™* is prepared to handle these increased transaction volumes. Further, our members have had to consider the ramifications of continuing to process reinvestigation requests through means other than the electronic means that *E-OSCAR-web™* provides.

Ultimately CDIA's members each made an independent decision to strongly urge and in some cases require its data furnishers to participate in the *E-OSCAR-web™* system in order to eliminate the manual (paper) reinvestigation process. Each has made this announcement to its data furnisher community and each has set its own date by which data furnishers should make the transition to *E-OSCAR-web™*. These separate announcements by each of the nationwide consumer credit reporting agencies have had a marked effect. Consider the following:

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<sup>3</sup> PL 108-159

- In July 2002, the last month that the old GEIS system was operational, it had approximately 1200 users. As of July 2004, the new *E-OSCAR-web*<sup>TM</sup> system has more than 9,200 registered users.
- In 2002, the GEIS system processed between 40% and 50% of all disputes. As of August, 2004 it is estimated that more than 75% of all disputes are now process on the *E-OSCAR-web*<sup>TM</sup> system.

Our members' voluntary efforts to use technology to handle the reinvestigation requests with data furnishers prior to the FACT Act's requirements have been extraordinarily successful when compared with processing reinvestigation requests via paper-based processes which depend on mail and manual processing. Consider the following statistics:

- Of the reinvestigation requests sent through the *E-OSCAR-web*<sup>TM</sup> for April of 2004, data furnishers returned disputes to repositories as follows:
  - 54% within 0-7 days.
  - 18% within 8-14 days.
  - 22% within 14-30 days.

It is clear that the *E-OSCAR-web*<sup>TM</sup> system provides benefits to consumers, data furnishers and users of consumer reports. The fact that data furnishers are able to reduce their response times to reinvestigation requests benefits all consumers and the safety and soundness of consumer report users' decisions. It is equally clear that the *E-OSCAR-web*<sup>TM</sup> system ensures higher response rates.<sup>4</sup>

Since FCRA Section 611(a)(5)(A) requires a consumer reporting agency to delete or modify information as appropriate from a consumer's file where the agency cannot verify the information with the data furnisher, each time a data furnisher does not respond to a consumer credit reporting agency's request for reinvestigation of a consumer's information, the data is deleted whether or not it is accurate and predictive of risk. Credit repair agencies have long attempted to overwhelm the reinvestigation system and force deletions or modifications of accurate and predictive derogatory information. The *E-OSCAR-web*<sup>TM</sup> is an important tool for data furnishers and nationwide consumer credit reporting agencies to address these credit clinic activities.

### **Data Furnisher Accuracy Reduces Disputes - Industry Data Standards - Metro Format**

For decades CDIA's members have recognized that as their data bases grew and as the number of data furnishers increased that data standards for the industry were critical to ensuring the precision, consistency and accuracy of information reported. Higher quality information leads to fewer disputes in the first place. In Appendix 2 we provide a description of the consumer credit reporting industry's long-term efforts to encourage data furnishers to accurately report information.

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<sup>4</sup> Out of a limited sample of small and large data furnishers which converted from paper dispute processes to the *E-OSCAR-web*<sup>TM</sup> system, the average improvement in a data furnisher's response rates was 44%.

*Post-FACT Act Metro2 Data Standard Update:*

In the context of the FACT Act nationwide consumer credit reporting agencies recognize the importance of thousands of data furnishers using the latest data standard. Members are engaged in a variety of efforts to convince more furnishers to convert to the latest data reporting standard, including financial incentives and in some cases mandates with set time frames. Today, only 50% of data is reported in the new Metro2 standard. CDIA's members report that some progress is being made in requiring data furnishers to convert, but the goal remains to convert 100% of the data furnisher community to the industry's latest standard

CDIA's nationwide credit reporting agency members are confident that data standards are an important preventative step in reducing overall reinvestigation requests.

**Selected FRB Questions:**

Having provided background and updates on both the *E-OSCAR-web*<sup>TM</sup> system and the Metro2 data reporting standard, we now provide answers to selected FRB questions.

FRB Question 1 – What type of entity reports negative and/or positive information to a consumer reporting agency and what type of entity does not report negative or positive information to a consumer reporting agency?

CDIA Answer 1 – CDIA's nationwide consumer credit reporting agency members receive data from a wide variety of sources including mortgage lenders, auto finance companies, general purpose banks, credit card issuers, home equity lenders, collection agencies, retail installment lenders, public record sources, student loan providers, guaranteed student loan agencies, U.S. Dept. of Education, state child support enforcement agencies, and more. A majority of these data sources report both positive and negative information. Some exceptions are self-evident such as collection agencies which report only negative information due to the nature of their business model.

FRB Question 2 – If any entity does not report information to a consumer reporting agency, why not?

CDIA Answer 2 - Since the entire data furnishing system is voluntary there are organizations engaged in any of the areas of lending listed above which may choose not to report at all or to report only negative information or perhaps to omit a key element of data such as a credit limit. Some lenders omit the reporting of very elite customers out of concern that other lenders will attempt to compete for this market of consumers. Other lenders choose not to report sub prime portfolios, again to try and limit exposure to competition. No doubt some small lenders may find the costs or liabilities too great and opt out of reporting data to any system and some data furnishers may choose to report only to one nationwide consumer credit reporting agency, but not all. Due to data furnisher liability found in FCRA Section 623, some data furnishers may simply not wish to take on the added risk of reporting any information to any consumer reporting agency. However, in all of this, the nationwide consumer credit reporting system is a very complete and accurate system of data with approximately four billion items of data being updated monthly.

FRB Question 3 – Is sufficient relevant information provided to a furnisher by the consumer? If not, what relevant information is often missing, and why?

CDIA Answer 3 – CDIA cannot speak to a data furnisher’s experiences with disputes submitted directly to it by a consumer, though it is clear that the 108<sup>th</sup> Congress recognized the value of disputes being submitted directly. First, it enacted Section 623(a)(6)(B) which requires data furnishers to accept disputes about identity theft directly from consumers where they submit an identity theft report to the address designated by the furnisher. Second, in enacting Section 623(a)(8), Congress required that, beyond situations involving identity theft reports, regulators should identify the circumstances in which a data furnisher should accept and process disputes submitted by consumers directly to them.

As discussed above (and in Appendix 1), where consumers submit a dispute to a consumer reporting agency, CDIA’s members have designed the *E-OSCAR-web*<sup>TM</sup> to provide data furnishers with a very accurate description of the consumer’s dispute using 26 discrete summary codes to describe a consumer’s dispute. Further the system includes a free-form narrative field which can be used to supplement the information provided in the codes that are used. Further, since all data furnishers will be using the *E-OSCAR-web*<sup>TM</sup> system, it has become feasible to consider some additional enhancements to an already successful technology. Discussions have begun on a means of delivering or making available consumer documentation, submitted to a consumer reporting agency along with a dispute, to data furnishers to ensure that a furnisher can more fully consider a consumer’s dispute.

FRB Question 4 – How does the furnisher ensure that it complies with the applicable statutory requirements regarding the accuracy and completeness of information it reports to the consumer reporting agency?

CDIA Answer 4 – As discussed above (and in Appendix 2), CDIA’s members have developed standard data reporting formats. CDIA’s members believe in the strongest possible terms that a data standard is essential for data quality when there are thousands of furnishers of all sizes submitting more than four billion updates to information every month.

The *E-OSCAR-web*<sup>TM</sup> system is designed using the latest data reporting standard, and this point further amplifies the importance of converting all data furnishers to the nationwide consumer credit reporting industry’s data standard. Further, as all data furnishers begin using the *E-OSCAR-web*<sup>TM</sup> they will receive notifications of blocked information in the files of consumer reporting agencies where a consumer has submitted an identity theft report pursuant to FCRA Section 605B(b). Congress intended these consumer reporting agency notifications to aid data furnishers in preventing the continued submission of fraudulent, inaccurate data.

The *E-OSCAR-web*<sup>TM</sup> system is also tied to other new reinvestigation duties. Through the FACT Act, Congress also amended FCRA Section 611(a)(5)(ii) which requires consumer reporting agencies to submit a notification to a data furnisher which has responded to a reinvestigation. This notification is a confirmation that the consumer reporting agency has received and processed the data furnisher’s reinvestigation response. As with “blocked data notifications”, these new notifications will be delivered through the *E-OSCAR-web*<sup>TM</sup> which all data furnishers will be using.

FRB Question 5 – When a consumer reporting agency receives notice of consumer disputes and forwards the information to the furnisher, how does the consumer reporting agency provide the furnisher with the notices and relevant information? Describe any guidelines or procedures, voluntary or otherwise, that apply to this process.

CDIA Answer 5 – In general, with regard to transmitting consumer disputes, see our discussion of the *E-OSCAR-web*<sup>TM</sup> system in Appendix 1. With regard to transmitting the consumer's dispute, see our discussion in CDIA Answer 3 above.

FRB Question 6 – How does a consumer reporting agency ensure that furnishers comply with requirements and timelines established under the FCRA for disputes communicated to a consumer reporting agency?

CDIA Answer 6 – Via the *E-OSCAR-web*<sup>TM</sup> system, CDIA's nationwide consumer credit reporting agency members can ensure that a data furnisher knows how much time it has to respond to every dispute it receives. The system allows furnishers to prioritize all disputes to ensure that the most urgent are processed first and that all disputes can be processed within the time frames established by FCRA. Further the *E-OSCAR-web*<sup>TM</sup> system allows data furnishers to use daily management reports to manage workflow and t\electronic messages to compliance officers are sent if a reinvestigation request is not being process in a timely manner. Ultimately consumer reporting agencies will delete this information as unverifiable where a data furnisher does not respond to a reinvestigation request.

It is important to note that due to the FACT Act, CDIA's members anticipate increased reinvestigation request volumes and that all data furnishers will process disputes on the *E-OSCAR-web*<sup>TM</sup>. Full and complete automation of the consumer dispute verification system is the means by which the industry will successfully process the number of reinvestigation requests expected, to ensure compliance with FCRA timelines for reinvestigations and to ensure that the consumer dispute system cannot be misused by credit repair agencies which attempt to flood the reinvestigation system solely for purposes of deleting accurate risk data.

FRB Question 7 – What are furnishers' procedures and timelines for investigating the disputes and reviewing the information provided?

CDIA Answer 7 – Under FCRA Section 623(b)(2) furnishers of information share the same time frames for completion of a reinvestigation as consumer reporting agencies. Under Section 611(a)(1)(B), consumer reporting agencies have thirty days in which to complete a reinvestigation unless the consumer submits additional information, in which case the dispute period is extended by fifteen days.

FRB Question 8 – Is sufficient relevant information provided to the furnisher by the consumer through the consumer reporting agency? Is all relevant information from a consumer provided to the furnisher through the consumer reporting agency? If not, what relevant information is often missing, and why? If relevant information is lacking, how does the furnisher resolve the dispute.

CDIA Answer 8 – See CDIA Answer 3 above. Note that a great many consumer disputes are submitted via telephone or by using the standardized form that is provided along with a consumer's file disclosure. Thus most disputes are not accompanied by information other than the dispute itself. As discussed above, with all data furnishers using the *E-OSCAR-web*<sup>TM</sup>

CDIA's nationwide consumer credit reporting agency members are discussing how to deliver or make available to data furnishers additional consumer information when submitted to them along with a consumer's dispute.

It is important to note that due to credit repair activities or even individual consumer choices, not all information or documentation that a consumer submits is truthful or authentic, nor are all requests for reinvestigations valid. CDIA's members have received a wide variety of falsified documents including police reports, letters from lenders and other similar documentation that is sent with the intent that accurate, derogatory information will be deleted from consumer credit reporting agency files. The *E-OSCAR-web*<sup>TM</sup> as it is currently designed does an exceptional job of providing, fast, precise and complete dispute information to data furnishers. We do not believe that any relevant information is missing today, unless the consumer himself/herself chose not to provide this information to the consumer reporting agency.

FRB Question 9 – If the furnisher finds that the information it reported to the consumer reporting agency was incomplete or inaccurate, what steps does the furnisher take?

CDIA Answer 9 – Where the furnisher is using the *E-OSCAR-web*<sup>TM</sup> it simply responds to the reinvestigation request, including providing the consumer reporting agency with instructions to delete or modify the inaccurate information.

FRB Question 10 – If the furnisher does not find the information reported to the consumer reporting agency to be incomplete or inaccurate, what steps does the furnisher take?

CDIA Answer 10 – Where a furnisher finds that the information is accurate as reported, this message is conveyed through the *E-OSCAR-web*<sup>TM</sup> to the consumer reporting agency. Even where a data furnisher has not received a reinvestigation request, The *E-OSCAR-web*<sup>TM</sup> allows a data furnisher to update or correct information where for example they have been contacted directly by their customer (e.g., FCBA contact).

## **Conclusion**

In conclusion, CDIA's members believe that the voluntary initiatives (*E-OSCAR-web*<sup>TM</sup> and data reporting standards) it has put into place are key to an effective system of processing disputes and managing all of the requirements which resulted from enactment of the FACT Act. Further, Congress has empowered the FRB and other banking regulators to promulgate regulations to address accuracy, integrity and reinvestigation processes, including disputes consumers may submit directly to furnishers of information. The burdens on the nationwide consumer credit reporting agencies resulting from the FACT Act can only be effectively managed by a reinvestigation system that uses the *E-OSCAR-web*<sup>TM</sup> platform and by supporting precise data reporting standards.

Sincerely

Stuart K. Pratt

President & CEO

## Appendix 1 – Background on E-OSCAR-web™

In 1993, CDIA's nationwide consumer credit reporting agency members voluntarily established an automated system to simplify and standardize the system of sending disputes to data furnishers. They recognized the importance of establishing a system which: (1) supported high response rates from data furnishers to disputes submitted by the consumer reporting agencies; (2) reduce the time for data furnishers to respond; (3) improve the quality of the responses received from data furnishers; and (4) lowered the cost of dispute processing for data furnishers and consumer reporting agencies.

In 1996<sup>5</sup> Section 611 the Fair Credit Reporting Act<sup>6</sup> was amended to include Section 611(a)(5)(D) which requires that "...any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to the consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies." This amendment codified the 1993 voluntary initiative of the association's nationwide consumer credit reporting agency members. Below you will find an excerpt from CDIA's testimony before the Senate Banking Committee<sup>7</sup> which describes this system:

### *E-OSCAR-web™*

The consumer reporting industry, through the auspices of the industry association, came together in 1992 to build an Automated Consumer Dispute Verification (ACDV) process. This voluntary industry effort predated the FCRA amendments by a full five years. The network went live in November of 1993 and began growing quickly thereafter. Fully 50% of all consumer disputes sent by the consumer reporting industry to data furnishers were traveling through the ACDV process by 1996. From 1996 through 1998, the industry remained at that 50% market penetration. In 1998, we began a reengineering process to help capture additional users. We also took the opportunity to match up the ACDV process with the new Metro 2 Format. In 2001, we began beta testing the E-OSCAR-web™ network with data furnishers. We successfully went live in the early summer of 2001 and have retired our old network. The new network is secure, encrypted, and available to a larger number of companies because it is browser based. The industry has ambitious plans to encourage all of the data furnishers to migrate to the E-OSCAR network.

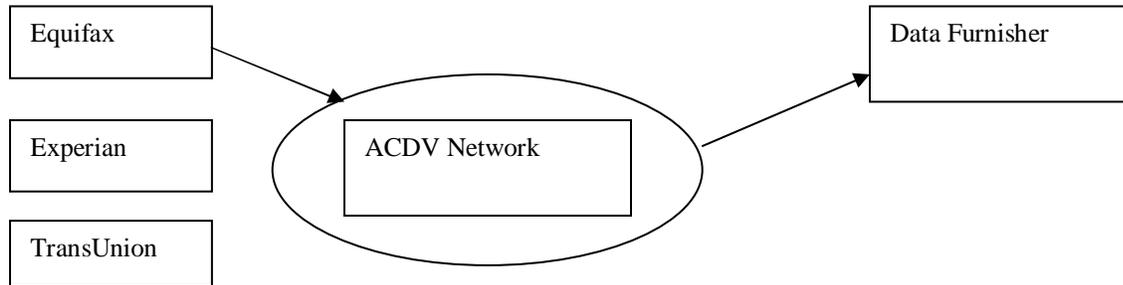
The essential process has remained the same since created in 1992, though recent technology innovations should encourage broader use of the system by smaller data furnishers. The consumer reporting agency receiving the dispute sends that dispute to the data furnisher.

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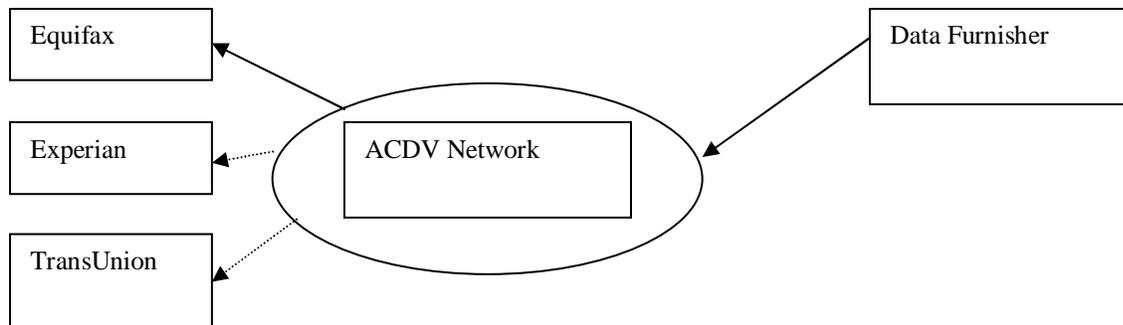
<sup>5</sup> PL 104-208

<sup>6</sup> 15 U.S.C. 1681 *et seq.*

<sup>7</sup> Testimony of Stuart K. Pratt before the Senate Banking Committee, July 10, 2003, Pages 18-19.



The data furnisher researches the dispute, provides an answer and, if changing the account or deleting it, provides a copy of the dispute and the response to each of the consumer reporting agencies to which it reported the data originally.



## **Appendix 2 – Background on Voluntary Industry Data Reporting Standards**

More than 30,000 data furnishers provide approximately four billion updates of information per month to the nationwide credit reporting systems. No law requires any furnisher of information to provide data to a consumer reporting agency.

A data format standard becomes a very important part of how the industry can ensure greater precision in the reporting of information, particularly with such a wide diversity of data furnishers<sup>8</sup>. If each of these data furnishers can choose how to report data and what data goes into what fields or how to define the status of accounts, etc., then the files of any given consumer are likely to reflect a wide variety of approaches to reporting information making it far more difficult to properly and fairly assess a consumer's risk.

The original Metro format for credit reporting was first developed in the mid '70s. Over the years, it has gained in popularity and achieved a high level of use in the market place. By 1996, more than 95% of all data was received by the nationwide credit reporting systems in this format. In 1996, the credit reporting industry took advantage of the opportunity afforded by the Year 2000 data processing "bug" to completely reengineer the format for credit reporting. The Metro 2 format was introduced in 1997 and has been steadily gaining in use by the data furnisher community. In 2004, a little more than half of all accounts are reported in this new format.

Both the original and the new Metro 2 formats are maintained by an industry committee of volunteers from each of the national systems. This group meets on a regular basis to develop industry-wide responses to questions from data furnishers and create new codes or fields as necessary. From time to time, this group will also create and deliver training sessions on the Metro 2 format for data furnishers that have not yet converted to the new format. More of these training sessions are scheduled for 2004 and 2005.

Typically, data furnishers report data on a regular basis, usually monthly. The industry does encourage those companies that bill their customers in cycles (e.g., every 30 days) to report that data to the consumer reporting agencies in cycles thus ensuring that the data is not only accurate as of the date reported but is also as current as possible.

The Metro 2 Format documentation is distributed within the industry by the Association. Data furnishers can obtain the document in hard copy or can download it free of charge from the CDIA website. Thousands of copies of the format have been distributed since the Metro2 was created. The documentation is quite extensive, providing all technical field layout requirements for system programmers. The industry also receives and publishes a number of "Frequently Asked Questions with Answers" to further augment a data furnisher's understanding of how to implement Metro2 data reporting.

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<sup>8</sup> Examples of data furnishers include credit unions, savings and loans, thrifts, mortgage lenders, credit card issuers, collection agencies, retail installment lenders, auto/finance lenders and more.