Mistakes Do Happen:

A Look at Errors in Consumer Credit Reports

June 2004

National Association of State PIRGs

Acknowledgments

Written by Alison Cassady, Research Director for the National Association of State PIRGs, and Edmund Mierzwinski, Consumer Program Director for the National Association of State PIRGs.

The authors would like to thank all of the volunteers who completed the credit report survey that forms the basis of this report. Additional thanks to Deirdre Cummings, Consumer Program Director with MASSPIRG Education Fund, for her contributions to this report. Special thanks to the Colston Warne Program of Consumers Union of the United States for its support of the National Association of State PIRGs' consumer protection work.

The states PIRGs are a nationwide network of nonprofit, nonpartisan, state-based public interest advocacy organizations. The state PIRGs' mission is to deliver persistent, result-oriented activism that protects the environment, encourages a fair marketplace for consumers and fosters responsive, democratic government.

For additional copies of this report, visit our website or send a check for $20 made payable to U.S. PIRG Education Fund at the following address:

U.S. PIRG Education Fund
219 D Street SE
Washington, DC 20003
(202) 546-9707
www.uspirg.org/reports

For more information on PIRG consumer campaigns, see http://www.pirg.org/consumer.

Table of Contents

Executive Summary

The most valuable thing we have is our good name. The most common reflection of our reputation as a trustworthy consumer is our credit report. Unfortunately, the information contained in our credit reports, which are bought and sold daily to nearly anyone who requests and pays for them, does not always tell a true story.

Credit bureaus collect and compile information about consumer creditworthiness from banks and other creditors and from public record sources such as lawsuits, bankruptcy filings, tax liens and legal judgments. The three major credit bureaus—Experian, Equifax, and Trans Union—maintain files on nearly 90 percent of all American adults.[1] Those files are routinely sold to credit grantors, landlords, employers, insurance companies, and many others interested in the credit record of a consumer, often without the consumer's knowledge or permission.

Several studies since the early 1990s have documented sloppy credit bureau practices that lead to mistakes on credit reports—for which consumers pay the price. Consumers with serious errors in their credit reports can be denied credit, home loans, apartment rentals, auto insurance, or even medical coverage and the right to open a bank account or use a debit card. Consumers with serious errors in their reports who do obtain credit or a loan may have to pay higher interest rates because the mistakes falsely place them in the sub-prime, high-cost lending pool.

We asked adults in 30 states to order their credit reports and complete a survey on the reports' accuracy. Key findings include:

♦ Twenty-five percent (25%) of the credit reports surveyed contained serious errors that could result in the denial of credit, such as false delinquencies or accounts that did not belong to the consumer;

♦ Fifty-four percent (54%) of the credit reports contained personal demographic information that was misspelled, long-outdated, belonged to a stranger, or was otherwise incorrect;

♦ Twenty-two percent (22%) of the credit reports listed the same mortgage or loan twice;

♦ Almost eight percent (8%) of the credit reports were missing major credit, loan, mortgage, or other consumer accounts that demonstrate the creditworthiness of the consumer;

♦ Thirty percent (30%) of the credit reports contained credit accounts that had been closed by the consumer but remained listed as open;

♦ Altogether, 79% of the credit reports surveyed contained either serious errors or other mistakes of some kind.

States have long taken the lead in protecting consumers' privacy and ensuring the accuracy of credit reports. In 1992, Vermont was the first state to pass a law providing a free annual credit report on request, followed by Colorado, Georgia, Maine, Maryland, Massachusetts, and New Jersey. California adopted other comprehensive reforms in 1994 and later became the first state to require disclosure of credit scores.

Congress eventually followed the states' lead, adopting some credit reporting reforms in 1996 and criminalizing identity theft in 1998. In December 2003, Congress passed the Fair and Accurate Credit Transactions Act (FACT Act). With the FACT Act, the financial industry won its primary goal: permanent preemption of stronger state credit and privacy laws. The FACT Act also included several modest consumer reforms, borrowing from state laws already enacted, including the right to a free annual credit report on request. Although these consumer reforms came at the unacceptable price of a state's right to protect its consumers, the law includes a number of provisions designed to enhance the accuracy of credit reports.

Despite recent federal action, we need to do more to protect consumers' financial privacy and ensure the accuracy of credit reports. Policy-makers should:

♦ Strengthen a consumer's private right of action to seek redress through the courts when a credit bureau or a creditor fails to protect personal information or comply with an investigation.

♦ Limit or prohibit the use of a consumer's Social Security number for transactions, credit applications, or on drivers' licenses and other identification.

♦ Give consumers more control over who has access to their credit reports and when, better information about when their reports are accessed or when negative information is added to their reports, and the right to control the use of credit scores for insurance purposes.

♦ Give identity theft victims more power to easily clear their names.

Consumers should:

♦ Order their credit report every year from the three national credit bureaus (Equifax, Experian and Trans Union) to identify and correct inaccurate information before it causes problems.

Background: Errors in Credit Reports

Reports and Complaints Document the Inaccuracy of Credit Reports

Several studies released in the early 1990s by the state Public Interest Research Groups (PIRGs) found that some credit reports contained serious mistakes and that credit bureaus often refused to fix them.[2] These studies showed that for each of the years 1990, 1991 and 1992, credit report complaints were the leading complaint to the Federal Trade Commission (FTC). Other studies by Consumers Union (publishers of *Consumer Reports*) and an independent credit reporting association buttressed the PIRG findings.[3]

In 1998, the state PIRGs released a follow-up report, which found that 29% of consumers, or nearly one-third, had serious errors in their credit reports that could cause the denial of credit or other adverse actions.[4] A Consumers Union study released in 2000 found similar results.[5] Then, in 2002, the Consumer Federation of America (CFA) released a massive study, done in conjunction with the National Consumer Reporting Association, a group of small independent credit bureaus. The CFA/NCRA report, based on a review of 500,000 consumer reports, found that 29% of consumers had variances of 50 points or more in their credit scores derived from credit reports from each of the three major credit bureaus, conservatively placing at least eight million Americans at risk of misplacement into the sub-prime, high-cost lending pool.[6] A similar large study of more than 248,000 reports, conducted by the Federal Reserve Board of Governors staff, also found errors in credit report data. The Fed found that fully 70% of consumers had at least one trade line account with incomplete information.[7]

Types of Mistakes Resulting in Inaccurate Credit Reports

Some of the mistakes on consumer reports are the result of mis-merged file information, when the bureau simply adds one consumer's account to another's file. Other mistakes are the result of identity theft, when a thief's fraudulent accounts end up on an innocent consumer's report. Still others result from coding or reporting errors where a consumer's on-time payments are falsely listed as late. Table 1 explains these credit bureau errors in detail.

Credit Bureaus Are Not Responsible for All Mistakes

The credit bureaus are not the only ones at fault; creditors and other furnishers often make mistakes. The 1996 amendments to the Fair Credit Reporting Act imposed duties and limited liability on creditors for either making mistakes or failing to comply with consumer-initiated reinvestigations of mistakes.[8]

Worse, some of the "errors" are intentional, where a creditor seeks to deflate its own consumers' credit scores—to maintain its current customers as captive customers. When a bank intentionally fails to report a consumer's complete credit report information to a credit bureau, that consumer is unable to shop around for the best prices, and other sellers are unable to market better prices to that consumer. The nation's chief national bank regulator, Comptroller of the Currency John D. Hawke, Jr., has condemned the practice.[9] In Congressional testimony in 2003, Capital One admitted that it routinely withholds credit limits, which has the effect of deflating credit scores.[10]

Although it reportedly has changed its practices, the massive Sallie Mae, which securitizes student loans for the secondary market, has withheld positive information about student loan payment history. This negatively affects its primarily younger borrowers, since most have fewer credit accounts, or trade lines, to be used in their favor than older consumers might.[11] Companies should not be allowed to "game" the so-called free flow of information to create a captive customer base and prevent their own customers from shopping around.

Table 1: Sources of Errors in Credit Reports and Variances in Credit Scores

Error	Explanation
Geographical discrepancies in affiliate coverage by repositories	Different repositories (credit bureaus) may use different overlapping affiliates with differential coverage of local creditors and debt collectors.
Variances in reporting for national or local creditors	One repository may use monthly tapes from a large creditor; another may use quarterly tapes.
Continued use of obsolete format for transferring and receiving consumer data.	Repositories have not required creditors to uniformly upgrade to the more accurate data format (called Metro 2), resulting in numerous errors, especially false bankruptcy reporting.
Incomplete reporting by large creditors in effort to trick scoring systems and prevent customers from shopping around	Some credit card companies do not report the full positive trade line on their good customers, especially sub-prime customers, deflating credit scores.
Public record data collection	Repositories collect courthouse records and inadequately verify that the John Smith who filed bankruptcy is the John Smith for whom they insert the negative public record. Or, repositories fail to record that a legal judgment has been paid, so the record is not "complete and up-to-date."
Failure to adequately match demographic information in requests by subscribers (any business that uses a credit report and credit score to make a business decision) with information in repository file.	Consumers cannot receive their own credit reports without providing 4-5 matching pieces of information. Subscribers, conversely, submit only 2 – name and Social Security number. Subscriber reports are therefore much more prone to include information about someone else: called a "mis-merge" or "file variant." Worse, when the consumer requests a report after denial, the mis-merge mistakes do not show up.

Analysis by U.S. PIRG

The State, Congressional, and Regulatory Response to Credit Reporting Mistakes

Early Efforts by Regulators and Congress to Clean Up the Credit Bureaus

In the late 1980s, state attorneys general and the Federal Trade Commission (FTC) had begun to notice increasing numbers of complaints about both the accuracy of credit reports and the failure of credit reporting agencies to respond to consumer complaints. In the early 1990s, several states and then the FTC began to place the Big Three credit bureaus, Equifax, Experian (formerly TRW) and Trans Union, under court-ordered consent decrees[12] enjoining them from further violations of the Fair Credit Reporting Act's requirement that they maintain reasonable procedures to ensure "maximum possible accuracy" of credit reports.[13]

In 1991, the credit bureau TRW (now Experian) falsely reported that every citizen who had paid his or her taxes in Norwich, Vermont and other areas – ultimately thousands of citizens – had not paid his or her taxes.[14] In response, in 1992 Vermont enacted several comprehensive reforms to improve credit report accuracy, including mandating a free annual credit report upon request. Colorado, Georgia, Maine, Maryland, Massachusetts, and New Jersey followed Vermont's lead, passing laws to provide free annual credit reports on request. California adopted other comprehensive reforms in 1994 and later became the first state to require disclosure of credit scores.

1996: Congress Finally Acts

In 1996, Congress finally reformed the Fair Credit Reporting Act (FCRA), enacting a new provision that placed responsibilities for credit report accuracy on banks, department stores and credit card companies (information furnishers) for the first time.[15] This reform also subjected several but not all provisions of FCRA to state preemption for eight years; meaning, it limited states' authority to enact stronger credit report accuracy and privacy laws. Unless Congress affirmatively acted, the limits on state authority would expire on January 1, 2004.

The 1996 FCRA amendments included several provisions to improve the accuracy of credit reports. Among the key changes were the following:

♦ Subjected furnishers (creditors) to modest new accuracy and reinvestigation duties and new, but limited, liability.

♦ Required national credit bureaus to develop a joint error notification system to prevent the recurrence of errors.

♦ Required credit bureaus to have adequate staffing to handle consumer complaints.

♦ Required users (such as banks and realtors) to tell consumers they have a right to a free credit report following denial of credit, expanded the circumstances under which free reports were available, and required credit bureaus to provide consumers with a detailed description of their rights.

♦ Made a series of other small changes, including a clarification that the 7-year period for dropping obsolete information could not be re-started when debts were sold and that accounts closed in good standing must be coded so that they could not be interpreted as negative items in credit scores.

In the years that followed, the FTC, the national bank regulator known as the Office of the Comptroller of the Currency (OCC), and other agencies that regulate creditors failed to enforce these reforms. As a result, the credit bureaus and credit furnishers treated mistakes and identity theft as merely a cost of business, rather than a problem.

"Operation Busy Signal"
Congress in 1996 also imposed new customer service responsibilities on the three largest credit bureaus, requiring them to have adequate staff to assist consumers and answer the phones. While the FTC did not and has not aggressively enforced the enhanced accuracy requirements enacted in 1996, it has enforced these more stringent customer service protections.

An FTC investigation of compliance with the 1996 amendments, "Operation Busy Signal," found that the three major credit bureaus had engaged in shoddy customer service in violation of the new law. In January 2000, FTC imposed $2.5 million in civil penalties on the bureaus for failing to comply with these new customer service duties.[16]

The firms were severely penalized, enjoined from further violations and ordered, for example, in the case of Experian, to maintain a "blocked call rate of no greater than ten percent (10%); [and] an average speed of answer of no greater than three (3) minutes and thirty (30) seconds."[17]

Yet, the FTC was forced to act again, just three years later, when it fined Equifax in July 2003 an additional $250,000 for failing to answer the phones.[18]

Fair and Accurate Credit Transactions Act (FACT Act) of 2003

In December 2003, following a massive financial industry lobbying campaign, Congress enacted the Fair and Accurate Credit Transactions Act (FACT Act) after a year of hearings featuring 109 witnesses. The primary intent of the FACT Act – from the industry's perspective—was to permanently extend preemption of stronger state credit and privacy laws. The FACT Act also incorporated several modest consumer reforms, including the right to a free annual credit report on request. Many of these reforms had stagnated in Congressional committees for years. Nearly all had been previously enacted by states.

Although the FACT Act's price—permanent extension of limits on state authority—was unacceptable, the Act includes a number of provisions designed to enhance the accuracy of credit reports.

➊ *Enhanced Disclosures to Give Consumers Access To Information*

First, the FACT Act grants consumers the right to a free credit annually on request. Under previous federal law, consumers had only been entitled to a free report after an adverse action such as denial of credit and under certain other limited circumstances (if you were indigent, unemployed or a victim of fraud).

Unfortunately, FTC is allowing the bureaus to delay before giving consumers in many states this right. On June 4, 2004, FTC finalized its rule implementing the new right to a free credit report. The rule unreasonably delays access to free reports for much of the country, rolling it out slowly over a nine month period, beginning on the west coast in December 2004 and finishing on the east coast in September 2005. In addition, the FACT Act allows consumers to obtain free reports from all three bureaus with one call to a central source; however, the new FTC rule will allow the bureaus to market other more expensive products on that central source as well.[19]

Second, the FACT Act grants consumers the right to a credit score at reasonable cost, along with an explanation of the key factors used to calculate that score (delinquencies, late payments, credit capacity ratios, etc) from credit bureaus and prohibits contractual provisions blocking disclosure of credit scores to consumers for free by users (e.g., banks, realtors).

Third, the FACT Act creates a new "risk-based pricing notice" for consumers who accept higher-priced credit under a counter-offer, a circumstance that had not been considered an adverse action.

Fourth, the FACT Act requires creditors to inform consumers the first time that they plan to send negative information to a credit bureau, such as information about a late credit card payment.

❷ *New Requirements on Agencies*

The FACT Act requires the FTC to compile and track complaints about credit report accuracy and complete a ten-year study with five bi-annual reports to Congress on the accuracy of reports. It also requires all regulators to establish guidelines and regulations to ensure the accuracy and integrity of information reported to credit bureaus. Agencies also must conduct an analysis of racial and ethnic disparities in credit report accuracy and study if including additional information about utility bill and similar payments provides a more accurate picture of a consumer's credit history.

❸ *New Requirements on Credit Bureaus to Improve Accuracy*

Consumers now have a longer statute of limitations to sue credit bureaus for violations. In addition, credit bureaus must notify credit furnishers of changes to databases resulting from a dispute, and credit bureau investigations must comply with a new "reasonableness" standard.

❹ *New Requirements on Creditors (Users and Furnishers) to Enhance Accuracy*

Creditors (furnishers) must correct successfully disputed items in their records and accept disputes directly from consumers, not only through bureaus. The law also increases the legal standard of accuracy and integrity of data for furnishers. Furnisher contact information must be more accessible on credit reports. Users (any business that uses a credit report and credit score to make a business decision) may not issue credit without better matching between credit reports and credit applications.

The law makes additional changes to protect privacy, prevent identity theft and help identity theft victims clear their names.[20]

Unfortunately, the vast majority of these provisions are only enforceable by regulators; consumers, in most cases, do not have a private right of action to sue violators. Further, states are severely restricted from enacting stronger laws.

Report Findings: Credit Reports Still Contain Errors

Several studies since the early 1990s have documented sloppy credit bureau practices that lead to mistakes on credit reports—for which consumers pay the price. Consumers with serious errors in their credit reports can be denied credit, home loans, apartment rentals, auto insurance, or even medical coverage and the right to open a bank account or use a debit card. Consumers with serious errors in their reports who do obtain credit or a loan may have to pay higher interest rates because the mistakes falsely place them in the sub-prime, high-cost lending pool.

Credit report errors occur for several reasons, including:

♦ Inaccurate reporting of demographic information by a bank or other creditor such as name, address, or Social Security number;

♦ Failure of the credit bureau to maintain adequate matching software to link a consumer's demographic information to the correct credit accounts or trade lines;

♦ Inaccurate reporting of a consumer's account status by banks, department stores, and other creditors, causing the consumer's report to contain false delinquencies;

♦ Information mixed together by the credit bureau in files containing similar names or addresses, either belonging to strangers or housemates, relatives, and spouses; or

♦ Lack of an adequate system for purging obsolete information such as paid-off accounts in good standing or accounts that have been transferred to other providers but are reported twice.

In order to gauge the scope of the problem, we asked adults in 30 states to order their credit reports and complete a survey on the reports' accuracy. Key findings include:

Serious Errors

Twenty-five percent (25%) of the credit reports surveyed contained serious errors that could result in the denial of credit, such as false delinquencies or accounts that did not belong to the consumer.

While all mistakes in credit reports could negatively affect consumers in some way, "serious" errors are characterized as errors that could clearly result in the denial of credit or other adverse consequences. Serious errors include the following:

♦ Accounts that are incorrectly marked delinquent;

♦ Accounts inaccurately listed as being in collections;

♦ Accounts listed that do not belong to the consumer, whether or not in good standing; or

♦ Bankruptcies, tax liens and other judgments that do not belong to the consumer or are still listed as open even though they have been resolved.

One 32-year old woman who participated in the survey noted that her credit report listed a balance on a credit card that was paid in full and closed in 2000 as well as four unresolved medical bills that were paid by 2001. This same credit report also listed a $2,000 balance on a credit card that does not belong to her. One New Mexico consumer found that his credit report listed a delinquency on his car loan payments, which were never late—the payments are automatically deducted from his bank account. Another consumer's report showed that she had been delinquent four times recently on a credit card closed in 2001.

Inaccurate Personal Information

Credit reports contain a set of basic personal identifying information such as name, Social Security number, birth date, current and past addresses, and employers. Of the consumers surveyed, more than half (54%) found errors such as name misspellings, inaccurate birth dates, inaccurate spousal information, long out-of-date addresses listed as current, and addresses listed where the consumer never lived.

- One credit report listed a consumer's business partner as his spouse, when in fact he is widowed and has not been married for 20 years.
- One credit report listed a consumer's birth year as 1952 when she was really born in 1975.
- Another credit report for a 28-year old professional lawyer listed her current employment as the first job she had in high school.

Loans Listed Twice

Twenty-two percent (22%) of the credit reports surveyed had the same mortgage or loan listed twice. This mistake often occurs when loans are serviced or sold. If a consumer's credit report incorrectly lists the same loan or other account twice, it could appear that the consumer has become delinquent on one loan or has "too much" debt for his income and could be denied future credit as a result.

Closed Accounts Listed as Open

Thirty percent (30%) of the credit reports surveyed contained accounts that had been closed by the consumer but remained listed as open.

All three major credit bureaus are supposed to list accounts that have been closed by a consumer in good standing as either "closed" or "paid" shortly after the closing occurs. Accounts left "open" by the credit bureaus could make it appear that a consumer is over-extended on credit, thereby causing denial of future credit. If a consumer is falsely listed as having an available $5,000 line of credit, for example, that diminishes his or her "capacity" to obtain a new loan.

- One credit report listed a student loan as open and with an outstanding balance, although the 39-year old consumer had paid off the loan years ago.
- A single credit report incorrectly listed several credit cards, a mortgage, and a paid-off auto loan as open.
- Another credit report listed as open a GMAC loan even though it had been closed for 10 years and a Bank of America credit account even though it has been closed since 1995.

The FACT Act places new duties on creditors and credit bureaus to address this particular problem.

Missing Accounts

Almost eight percent (8%) of the credit reports surveyed were missing major credit, loan, mortgage, or other consumer accounts that demonstrate the creditworthiness of the consumer. This mistake can occur because of differences in the geographical coverage between the different repositories or because a furnisher is intentionally blocking some accounts, among other reasons. One 67-year old consumer surveyed noted that his credit report was missing three credit card accounts and two separate mortgage items.

Credit reports are supposed to detail the credit history of a consumer, including his or her ability to make payments on time. When a consumer's account is not listed, that consumer loses the benefit of demonstrating his or her ability to manage credit or pay a loan. The new FACT Act calls for the FTC to study ways to broaden the types of local accounts, such as utilities or small loan companies, that report information to credit bureaus so that consumers will have more opportunities to take advantage of their positive credit histories.

Errors or Mistakes of Any Kind

Altogether, 79% of the credit reports surveyed contained either serious errors or other mistakes of some kind. In addition to the types of errors listed above, some reports included inaccurate credit limits, often listing the highest balance as the credit limit. One credit report, for example, listed a consumer's credit card limit as $6100 and her highest balance as $8125. This consumer claims she never went $2000 over her credit limit.

Recommendations

Recommendations for Policy-Makers
Despite recent federal action, we need to do more to protect consumers' financial privacy and ensure the accuracy of credit reports. Policy-makers should:

♦ Strengthen a consumer's private right of action to seek redress through the courts when a credit bureau or a creditor fails to protect personal information or to comply with an investigation.

One of the biggest flaws in the 1996 and 2003 FCRA reforms is their over-reliance on administrative enforcement by regulatory agencies to protect consumers when violations by creditors occur. Current law severely restricts a consumer's private right of action to seek redress through the courts, especially when a furnisher (creditor) fails to protect his or her information or to comply with an investigation. Worse, most new FACT Act protections are only enforceable by agencies, not consumers, meaning they may not be enforced at all.

♦Limit or prohibit the use of a consumer's Social Security number for transactions, credit applications, or on drivers' licenses and other identification.

Your Social Security number is the key to your financial identity. No person should be required or coerced into providing a Social Security number for any employment application, credit application or other transaction, except for Social Security, Medicare, or Medicaid purposes. Similarly, universities and the military should stop using Social Security numbers as identifiers in information systems or on identification cards. The sale or public display of Social Security numbers also should be restricted. Restricting the use of Social Security numbers would go far to reduce new cases of identity theft.

♦ Give consumers more control over who has access to their credit reports and when and the right to control the use of credit scores for insurance purposes.

Identity thieves take advantage of the fact that any business with a "permissible purpose" can access a consumer's credit report for credit or insurance purposes.[21] A consumer should be able to "freeze" his or her credit reports at no charge, preventing the credit bureaus from releasing his or her credit report without a security code. Similarly, credit bureaus should be required to notify the consumer following new business requests (not from current creditors) for his or her report in order to detect illegitimate access and fraud.

In addition, insurance companies should not be able to use credit scores derived from credit reports to deny consumers home or auto insurance or place consumers in higher-risk (higher-cost) pools, even when the consumer has not filed a claim and has not missed any payments. No study has shown a direct causal link between credit scores and insurance risk.

♦ Give identity theft victims more power to easily clear their names.

The FACT Act gives identity theft victims the right to obtain information from a business about the thief's transactions. But the business has the option to insist on a formal police report before divulging this information to the victim.[22]

Unfortunately, identity theft victims may be unable to obtain a police report due to local policies, staff shortages at the local police department, or an unwillingness of the local police department to take a report when the identity thief is operating from another jurisdiction. All police departments should be required to take a formal report when asked by a victim of identity theft. In addition, victims of identity theft should be able to file police reports where they live and should be able to file with courts for a “factual declaration of innocence,” protecting them from arrest for crimes committed by someone using their name.

Recommendations for Consumers

Although federal regulators should hold creditors and credit bureaus responsible for errors, consumers need to monitor their credit reports as well. Consumers should:

♦ Order their credit report every year from the three national credit bureaus (Equifax, Experian and Trans Union) to identify and correct inaccurate information before it causes problems.

Methodology

This report is based on files held by the so-called "Big Three" credit bureaus—Equifax, Experian and Trans Union--also referred to as the "national repositories." Numerous other local credit bureaus either sell or license their data to these national repositories. When a consumer credit decision is made in the United States, even if the creditor initially contacts a local bureau, information from one or more of the national repositories is generally used.

In the spring of 2004, we sent emails to thousands of PIRG citizen members across the country requesting their voluntary participation in a survey about the accuracy of credit reports. In addition, we asked PIRG staff, coalition partners, friends and family to complete the survey as well. Overall, we collected 197 surveys from 154 adults in 30 states, the vast majority of surveys coming from PIRG citizen members. The participants ranged in age from 20-81; the average age was 40.

Some participants ordered their report from more than one credit bureau. We instructed these participants to complete a survey for each credit bureau; if the participant submitted only one survey form but noted that he/she ordered a report from all three credit bureaus, we counted this as one survey. We collected 73 surveys from Equifax, 60 surveys from Experian, and 40 from TransUnion. Five of the survey responses did not indicate the credit bureau, and 19 surveys indicated that the respondent ordered a report from all three bureaus.

Credit reports are available online or may be obtained in the mail with a phone call. Of the surveys collected, 119 respondents received their reports through the mail; 75 respondents obtained their reports online. On three of the surveys, the respondents did not indicate how they obtained their reports.

Of the surveys collected, 122 indicated that the respondent received their reports free of charge. All others paid at least $8. Two respondents did not indicate whether or not they paid for their reports.

For the purposes of this report, a "serious error" includes:

- ♦ Accounts that are incorrectly marked delinquent;
- ♦ Accounts inaccurately listed as being in collections;
- ♦ Accounts listed that do not belong to the consumer, whether or not in good standing; or
- ♦ Public records, bankruptcies, tax liens and judgments that do not belong to the consumer or are still listed as open even though they have been resolved.

End Notes

[1] This report is based on files held by these so-called "Big Three" credit bureaus, which are also referred to as the "national repositories." There are numerous other local credit bureaus. These either sell their data to or license their data to these national repositories. When a consumer credit decision is made in the United States, even if the creditor initially contacts a local bureau, information from one or more of the repositories is generally used. There are also numerous specialty credit bureaus, some affiliated with the repositories, others affiliated with other companies. For example, the Medical Information Bureau collects information about insurance claims history. Tenant screening bureaus work on behalf of landlords. CLUE, a division of the Equifax spin-off Choicepoint, is an auto and home insurance rating bureau. Numerous check verification and guarantee bureaus also exist. One distinction is that many of the specialty bureaus only collect and sell negative information, while the national repositories report on both positive and negative payment history. All are regulated under the federal Fair Credit Reporting Act, 15 USC 1681 *et seq.* The act uses the terms "consumer reporting agencies" and "consumer reports" instead of the more common "credit bureaus" and "credit reports."

[2] See the following state PIRG reports: *Nightmare On Credit Street (Or How The Credit Bureau Ruined My Life): Case Studies Documenting Consumer Complaints and Recommendation For Amending the FCRA*, June 12, 1990; *Don't Call; Don't Write; We Don't Care,* 1991, which reviewed 156 consumer report complaints on file at the FTC and revealed that the average duration of complaints against a credit bureau was 22.5 weeks, or almost 6 months; and *Public Enemy #1 at the FTC,*" October 1993. Based on a Freedom of Information Act request, the 1993 report found that between 1990 and 1993, problems with credit bureaus was the leading cause of complaints to the FTC (30,901, 20.6%). *Public Enem*y also found that 44% of complaints concerned mixed files, and that among those, 64% involved the mixing of data with total strangers.

[3] Consumers Union, *What Are They Saying About Me? The Results of a Review of 161 Credit Reports from the Three Major Credit Bureaus*, April 29, 1991. This report found that 48% of the credit reports contained "serious errors," defined as meaning those that could, or did, cause the denial of credit, employment or insurance. See also James Williams, (Consolidated Information Services), "Credit File Errors, A Report," August 7, 1989. This early survey of 1,500 consumer reports found a serious error rate of 42% to 47%.

[4] State PIRGs, *Mistakes Do Happen: Credit Report Errors Mean Consumers Lose*, March 1998, available at http://uspirg.org/reports/mistakesdohappen3_98.pdf.

[5] "Credit reports: How do potential lenders see you?", *Consumer Reports*, June 2000.

[6] See Consumer Federation of America and National Credit Reporting Association, *Credit Score Accuracy and Implications for Consumers*, December 2002. http://www.consumerfed.org/121702CFA_NCRA_Credit_Score_Report_Final.pdf

[7] Robert Avery, Paul Calem, Glenn Canner, and Raphael Bostic, "An Overview of Consumer Data and Credit Reporting," *Federal Reserve Bulletin*, February 2003. http://www.federalreserve.gov/pubs/bulletin/2003/0203lead.pdf

[8] Section 1681(s)(2)(A) of the FCRA imposes a duty on furnishers (creditors) to avoid errors, solely enforceable through agency action. Section 1681(s)(2)(B) imposes a requirement that furnishers comply with reinvestigation requests. This duty is enforceable through a private right of action (consumer lawsuits).

[9] See speech by Comptroller of the Currency John Hawke at http://www.occ.treas.gov/ftp/release/99-51.txt in June 1999: "Some lenders appear to have stopped reporting information about subprime borrowers to protect against their best customers being picked off by competitors. Many of those borrowers were lured into high-rate loans as a way to repair credit histories." According to PIRG's sources in the lending industry, this practice continues.

[10] At a hearing on July 29, 2003, the Senate Banking Committee chairman engaged in a long question-and-answer session with the Capital One credit card company witness Scott Hildebrand on its failure to fully report. Access the video archive of the hearing at http://banking.senate.gov/index.cfm?Fuseaction=Hearings.Detail&HearingID=55. Also see testimony of Travis Plunkett, Consumer Federation of America, July 29, 2003 and testimony of U.S. PIRG's Ed Mierzwinski, co-author of this report, at the committee's hearing on July 31, 2003, at http://banking.senate.gov/index.cfm?Fuseaction=Hearings.Detail&HearingID=56.

[11] During Senate consideration of the FACT Act in November 2003, an amendment by Sens. Richard Durbin (D-IL) and Herb Kohl (D-WI) requiring full reporting by Sallie Mae was withdrawn after the company sent a letter to them and to Banking Chairman Shelby (R-AL) and committee ranking member Paul Sarbanes (D-MD) promising to change its ways. For full background on the Sallie Mae case, see http://www.pirg.org/consumer/#sal.

[12] See "TRW vs. Morales et al" [Attorney General of Texas], December 1991 [TRW is now Experian] and later decrees by the United States against TRW, Equifax and Trans Union available in "Fair Credit Reporting Act," Fifth Edition, National Consumer Law Center, Boston, Massachusetts, 2002. The bureaus, in these decrees, were required to comply with the act and dozens of specific practices were required. For example, the bureaus were required to "match" or verify the accuracy of information more precisely before adding it to credit reporting databases or providing it to business subscribers. The bureaus were also prohibited from conducting tacit investigations of consumer disputes or from claiming that virtually all consumer inquiries were frivolous.

[13] Section 607 (b) [15 U.S.C. § 1681e] of the FCRA states: "*Accuracy of report.* Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates."

[14] See the June 2004 testimony of Vermont Assistant General Julie Brill before the U.S. House Financial Services Committee for a history of the debacle and the subsequent 1992 enactment of a comprehensive Vermont mini-FCRA law that, among other major reforms, established the first right to a free credit report on request. Available at http://financialservices.house.gov/media/pdf/060403jb.pdf.

[15] See Consumer Credit Reporting Reform Act of 1996 (Public Law 104-208, incorporated as Title II, Subtitle D, Chapter 1 of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997).

[16] "Nation's Big Three Consumer Reporting Agencies Agree To Pay $2.5 Million To Settle FTC Charges of Violating Fair Credit Reporting Act," January 13, 2000, at http://www.ftc.gov/opa/2000/01/busysignal.htm

[17] See the consent decree at www.ftc.gov/os/2003/07/equifaxjointmotion.pdf.

[18] "Equifax to Pay $250,000 to Settle Charges: FTC Alleges Blocked and Delayed Consumer Calls Violated Consent Decree," 30 July 2003 at http://www.ftc.gov/opa/2003/07/equifax.htm

[19] The final rule is available at http://www.ftc.gov/os/2004/06/040604factafreeannualfrn.pdf. For history, a copy of PIRG's comments to the proposed rule, see http://www.pirg.org/consumer/#ftcfree.

[20] For additional details on the law and its provisions, see http://www.pirg.org/consumer/credit/.

[21] Federal law requires that employment users must ask your consent. Vermont law requires credit users to ask your consent. Of course, even in these circumstances, a thief using your name would not hesitate to give "your" consent, which is why the security freeze offers a greater degree of control and protection.

[22] FACT § 151(a); FCRA § 609(e)(2)(B)(i). This section goes into effect 180 days from December 4, 2003.