

January 7, 2019

Chairman Joseph J. Simons
Federal Trade Commission
Constitution Center
400 7th St., SW
5th Fl, Suite 5610 (Annex B)
Washington, D.C. 20024

Re: Military Credit Monitoring Rulemaking, Matter No. R811007

Dear Chairman Simons:

The undersigned Veteran Service Organizations and Military Service Organizations (VSO/MSOs) submit these comments in response to the Federal Trade Commission's (FTC) Notice of Proposed Rulemaking (NPRM) regarding free electronic credit monitoring services for active duty military consumers, as required by Section 605A(k) of the Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681c-1(k). The requirement for these services was established by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) of 2018.¹

Individual financial readiness is critical to overall military readiness. Servicemembers in financial distress are often forced to leave the military due to loss of security clearance or for other reasons. Indeed, the Department of Defense (DoD) has estimated "approximately 4,640 to 7,580 servicemembers are involuntarily separated where financial distress is a contributing factor."² The cost of involuntary separation for financial distress impacts not only the servicemember, but also DoD and taxpayers. DoD estimates that reducing the annual number of involuntary separations in which financial distress is a contributing factor from between 5 to 30 percent would cause "savings to the Department [that] could be in the range of approximately \$13.51 million to \$132.52 million each year."³ Ensuring military members have the tools they need to maintain their financial well-being is a national security issue.

DoD recently announced it would conduct "Continuous Evaluation" (CE) of the security eligibility of security clearance holders. This includes continual monitoring of credit reports.⁴ As you know, the information on one's credit report is not always the same at all three major consumer reporting agencies (CRAs). If a servicemember is notified of a material modification to their credit file, in the interests of both their continued employment and national security, they must be able to immediately access credit reports from all three CRAs regardless of whether they have already used their annual free credit report check or filed a fraud alert. It is important to note not all material additions or modifications to a servicemember's credit file are due to fraud.

The FTC should include as part of any "electronic credit monitoring service" free online access to credit reports when a servicemember receives notification of a material addition or

¹ Public Law No. 115-174, § 302 (2018).

² 80 FR 43559 (July 22, 2015).

³ *Id.*

⁴ Tammy Fink and Saunci Barrett, *Major financial changes could affect your security clearance*, September 19, 2018, https://www.army.mil/article/211351/major_financial_changes_could_affect_your_security_clearance

modification to his/her credit file. Without free online access to credit reports, there is a significant risk that the nationwide CRAs will seek to entice active duty military consumers into paying expensive monthly fees to subscribe to paid access to their own credit reports. Our men and women in uniform deserve free access to online credit reports as part of their right to electronic credit monitoring, as dictated by the requirements of national security.

While seven states provide for additional free credit reports, there must be a national standard in all U.S. states and territories to provide for the continued financial readiness of all servicemembers.

The FTC should tailor the requirement for “appropriate proof of identity” to accommodate the special circumstances of military consumers. The nationwide CRAs’ identification requirements can be overly difficult for many American consumers to meet and are more demanding than what the nationwide CRAs require from consumers paying for their reports. Since many servicemembers move frequently due to permanent change of station (PCS) orders which could include short stints of training or unaccompanied assignments, providing addresses for a two-year timeframe, for example, may prove burdensome and excessive.

In reference to “appropriate proof of active duty military status”, mandating that the CRAs accept a current Leave and Earnings Statement (LES) as an additional proof of service status would suffice to meet the needs of America’s fighting men and women on active duty. One portion of the proof of active duty military status that we disagree with is the proposed fourth method: a certification of active duty status approved by the nationwide consumer reporting agency. We believe this is too broad and the example of a checked box is an inadequate method of proof.

Additionally, we believe the FTC should defer to DoD’s definition of active duty status and active status for the National Guard and Reserve. The FTC must consider the situation of the National Guard and Reserves. The realities of the so-called “operational reserve” are that increased training and deployments require Guard and Reserve members maintain their financial readiness and security clearance while not on active duty as they may be called up to serve at a moment’s notice.

We agree with the use, disclosure and advertising restrictions proposed by the FTC, which will protect the privacy interests of active duty military consumers and prevent inappropriate use of their information. We also think the FTC is reasonable in its proposal to prohibit the nationwide CRAs from asking or requiring an active duty military consumer to agree to terms or conditions in connection with obtaining the free electronic credit monitoring service that the CRAs are obligated to provide. This prohibition is necessary and appropriate, especially to prevent active duty military consumers from being compelled to agree to forced arbitration provisions in order to exercise their right to electronic credit monitoring services.

Finally, we believe the FTC’s proposed definition of “material additions and modifications,” including the exclusion of prescreening and account review inquiries, is sufficient to meet the needs of military consumers, but that the FTC should also add one more item to the definition: a significant drop in a credit score, such as 25 points or more. Such a drop could be a sign that something has significantly changed in the military consumer’s credit file, perhaps due to fraud.

A large drop in a servicemember's credit score could signal a problem that leads to the revocation of a security clearance and should be included under this definition.

We appreciate the opportunity to submit a comment to the FTC regarding this important matter for servicemembers.

Very Respectfully,

Army Aviation Association of America (AAAA)
Association of Military Surgeons of the United States (AMSUS)
Association of the United States Navy (AUSN)
Enlisted Association of the National Guard of the United States (EANGUS)
Jewish War Veterans (JWV)
National Guard Association of the United States (NGAUS)
National Military Family Association (NMFA)
Tragedy Assistance Program for Survivors (TAPS)
Veterans Education Success (VES)
Vietnam Veterans of America (VVA)

cc: Commissioners Rohit Chopra, Noah Phillips, Rebecca Slaughter, and Christine S. Wilson