September 15, 2006

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Re: Joint Proposal Rulemaking Implementation of Sections 114 and 315 of the Fact Act Red Flag Guidelines – FRB Docket No. R-1255

Dear Ms. Johnson,

As a leader in the financial services industry ("the industry"), Fifth Third welcomes the opportunity to comment on the proposed regulations issued by the Federal Reserve, OCC, FDIC, OTS, NCUA, and FTC ("The Agencies") related to implementation of Sections 114 and 315 of the Fair and Accurate Credit Transactions Act of 2003 ("FACT Act")

Fifth Third recognizes the Agencies' attempt to create uniform guidelines for financial institutions and creditors identifying patterns practices, and specific forms of activity that indicate the possible existence of identity theft. In addition, these proposed regulations include a provision requiring debit and credit card issuers to assess the validity of a request of a change of address under certain circumstances and a provision related to procedures users of consumer reports must employ when they receive a notice of address discrepancy from a consumer reporting agency.

However, we believe that the proposed rules are overly prescriptive, exceed the statutory language, and will result in serious unintended consequences that would negatively affect the financial services industry.

Summary

The financial industry currently devotes significant resources to anti-fraud and loss prevention programs including identity theft related concerns. We would like to emphasize that financial institutions incur significant costs in direct fraud loss, operational time and expense in assisting affected customers, and customer service impacts, and accordingly, are highly motivated to create effective and efficient risk-based processes to combat these crimes. These programs are dynamic and continually adjusted to respond to emerging threats and individual institution experience. We believe the regulations as proposed are not flexible and do not constitute risk-based guidelines as per the Agencies' stated intentions. Instead, they will create a static checklist mentality that will focus on paperwork to document compliance with the Red Flag procedures outlined in the Appendix.

We strongly recommend the Agencies consider the following comments and recommendations:

- Regulate by objective with guidelines and not prescriptive checklists. We believe an approach used in the "Interagency Guidelines Establishing Information Security Standards" is an appropriate framework and has worked well.
- Clarify the "Red Flag" appendix procedures as risk-based guidelines for reference and not a de-facto checklist.
- Eliminate redundant and excessive documentation requirements. The proposed regulations discuss coordination with financial institutions' information security and Customer Identification Programs. We do not believe a separate written "Red Flag" program is needed or required that will simply require additional documentation to show coordination with other programs already in place.
- The guidelines should focus on the financial institution's risk-assessment process related to fraud and identity theft trends and threats and the design of the overall program.
- We are concerned that in some areas the scope of the proposed regulation exceeds the statutory requirements. Specifically the extension of the definition of account to include business credit and services and the requirement for Board approval of the program are not required by statute.
- Identity theft related threats are rapidly changing as a result of technology and financial institution programs need to be risk-based and dynamic as a result. For this reason, extensive program documentation and the Board approval requirement in the proposed rules is not practical.

Conclusion

Fifth Third urges the Agencies to revise the proposed rules into broadly defined risk-based guidance that will enable the industry to continue to develop flexible and effective programs rather than prescriptive identity theft compliance documentation. This will allow financial institutions to focus on continuing to develop their anti-fraud and identity theft programs in a manner consistent with the size of the institution and identified threats.

We appreciate the opportunity to comment on this proposal. Should you wish to discuss any elements of this letter further, please call me at (513) 534-6910.

Sincerely,

Mary E. Tuuk
Senior Vice President
Director of Risk Policy and Chief Compliance Officer
Fifth Third Bancorp

cc: Malcolm Griggs, Chief Risk Officer