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Governor

STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
CONSUMER PROTECTION BOARD

Mindy A. Bockstein  
Chairperson and Executive Director

February 21, 2008

Federal Trade Commission  
Office of the Secretary  
Room H-135 (Annex K)  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: **Credit Report Freezes**—Comment, Project No. P075420

Dear Commissioners:

On behalf of the New York State Consumer Protection Board (CPB), the state's top consumer watchdog, I am pleased to submit comments on Credit Report Freeze effectiveness. The CPB was established in 1970 pursuant to New York Executive Law Sections 552 and 553. It is the mission of the CPB to protect, educate, and represent consumers. The CPB is dedicated to formulating informational and educational outreach programs and initiating policy development. Currently, the CPB is developing comprehensive outreach programs on issues such as identify theft, Internet safety, financial literacy, and credit card management. Our Consumer Assistance Unit (CAU) which takes complaints five days a week, 8:30 a.m. to 4:30 p.m., via our toll-free helpline at 1-800-697-1220 and twenty-four hours a day, seven days a week via the web at [www.nysconsumer.gov](http://www.nysconsumer.gov), responds to and resolves over 20,000 complaints and inquiries a year on a variety of topics including identity theft, credit disputes, and product refunds and returns.

New York's Security Freeze law became effective in November 2006. It charges the CPB with monitoring the state of technology utilized to process requests for lifting a Security Freeze. (NYS General Business Law § 380-t). On February 6, 2008, in accordance with its statutory mandate, the CPB held a public hearing regarding New York's Security Freeze. Members of the public, consumer advocates, retailers, and representatives of the credit reporting agencies were invited to participate.

As the New York Public Interest Research Group ("NYPIRG") aptly stated in its testimony, the "release of a consumer's credit report is the linchpin in the crime of identity theft."<sup>1</sup> Freeze laws are the gold standard for preventing identity theft because they let consumers lock their financial information up tight to prevent new account fraud." (*Id.* at 2). Accordingly, New York's Security Freeze law has proven to be an effective means by which identity theft is prevented. Since the law's inception, roughly 27,000 New Yorkers have placed Security Freezes on their credit files.<sup>2</sup>

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<sup>1</sup> Statement of NYPIRG before the New York State Consumer Protection Board Regarding New York



The CPB hearing revealed, however, that New York's law could be improved in several respects. These proposed modifications may prove instructive for the FTC. First and foremost, it is clear that it would be feasible to shorten the time it takes both to implement and to lift (either temporarily or permanently) a freeze. New York law requires the credit reporting agencies to place a freeze within four (4) business days of receipt of the consumer freeze request, and to remove or thaw a freeze within three (3) business days. (NYS Gen. Bus. Law § 380-t(b)). According to Experian's comment to the CPB, it can take up to three business days for Experian to place a Security Freeze on a consumer's credit file. Similarly, it can take up to three business days for Experian to remove a freeze. While Experian is complying with New York law, we believe that the technology exists to place or remove a freeze (assuming that the consumer provides proper authentication) virtually instantaneously. The laws of other states and other analysis support this. For example, Utah has implemented a law, effective this year, whereby credit reporting agencies are required to lift a Security Freeze within 15 minutes. New Jersey's law also promotes the goal of processing a Security Freeze lift within that time period. The CPB supports the legislative implementation of shorter time periods to place and/or remove (either temporarily or permanently) Security Freezes, provided that there are appropriate safeguards for identity authentication.

Second, the means by which a consumer can request a Security Freeze must be convenient and user-friendly. Currently, New York State's Security Freeze law requires consumers to contact the credit reporting agencies by overnight or certified mail. This method adds undue expense and burden upon consumers.<sup>3</sup> Given our technology age, the CPB supports the placement of freezes via the Internet and/or telephone, as well as by regular mail. In addition, credit reporting agencies should implement a dedicated toll-free number to handle consumers' Security Freeze issues. There is a great deal of confusion on the part of consumers as to what phone numbers and/or addresses of credit reporting agencies are appropriate for use to apply for a freeze or to inquire about a credit report or fraud.

Third, the circumstances in which consumers can place a security freeze on their credit file without incurring cost should be expanded to include victims of security breaches in addition to victims of identity theft with proof of an FTC affidavit or law enforcement report. The CPB monitors computerized data breaches in New York State. (NYS Gen. Bus. Law § 899-aa; State Technology Law § 208). As the FTC is aware, these breaches can lead to instances of identity theft. Under New York's current Security Freeze law, individuals impacted by a security breach must pay a \$5 fee to each credit reporting agency to place a Security Freeze. However, initial fees should be waived for all individuals who can provide verification that their private personal information has been lost or stolen through no fault of their own. Proof could include a police report or notification by a third party of the security breach.

Finally, the cost for all New Yorkers to place a Security Freeze should be reduced. Currently, New York law provides that Security Freezes can be placed or removed for \$5 dollars per credit reporting agency. At the CPB's February 6 hearing, the CPB heard testimony underscoring the chilling impact of fees. For instance, it presently costs \$30 to "thaw" and re-

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State's Credit Report Freeze Law, February 6, 2008, p. 3.

<sup>2</sup> Testimony of Eric Ehlman, Consumer Data Industry Association, February 6, 2008.

<sup>3</sup> A recent survey by the AARP supports this assertion. AARP, *Security Freeze Legislation: Awareness and Incidence of Placement Among Consumers 18+ in Seven States*, November 2007.



freeze an individual's credit files. Other states can serve as a model. For example, in Indiana, there is no cost to impose a freeze. In Illinois, there is no cost to identity theft victims or seniors over the age of 65. For those on a limited income, \$30 may be cost prohibitive. Guidance on a proper fee scale can also be drawn from the Fair Credit Reporting Act.

Thank you for the opportunity to comment on Credit Security Freezes and for your consideration of our insights.

Sincerely,

Mindy A. Bockstein  
Chairperson and Executive Director

