http://consumersunion.org/wp-content/uploads/2013/03/FTC-Comments-Security-Freeze.pdf

Consumers Union
Nonprofit Publisher of Consumer Reports

February 25, 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

To Whom It May Concern:

Consumers Union[1], the non-profit publisher of *Consumer Reports*® submits these comments on behalf of ourselves, the Privacy Rights Clearinghouse,[2] and the National Consumer Law Center[3] (on behalf of its low-income clients) in response to the Federal Trade Commission's inquiry regarding the impact and effectiveness of credit report freezes (security freezes).

In summary, we offer the following overarching comments and recommendations:

- **Consumer demand for the security freeze is strong; the most effective state models meet that demand by providing affordable, accessible and convenient security freeze rights to all consumers.**

[1] Consumers Union is a non-profit membership organization chartered in 1936 under the laws of the state of New York to provide consumers with information, education and counsel about goods, services, health and personal finance, and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life for consumers. To maintain our independence and impartiality, Consumers Union accepts no outside advertising, no free test samples, and has no agenda other than the interests of consumers. Consumers Union supports itself through the sale of our information products and services, individual contributions, and a few noncommercial grants. Consumer Reports, Consumer Reports Online, and our health and financial newsletters, with more than 7.4 million paid subscribers, regularly carry articles on health, product safety, financial services, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare.

[2] The Privacy Rights Clearinghouse (PRC) is a nonprofit consumer organization with a two-part mission -- consumer information and consumer advocacy. Established in 1992 and based in San Diego, California, PRC's goals are to raise consumers' awareness of how technology affects personal privacy; empower consumers to take action to control their own personal information; respond to specific privacy-related complaints from consumers, intercede on their behalf; document the nature of consumers' privacy complaints and questions; advocate for consumers' privacy rights in local, state, and federal proceedings.

[3] The National Consumer Law Center (NCLC) is the nation's consumer law expert, helping consumers, their advocates, and public policy makers use powerful and complex consumer laws on behalf of low-income and vulnerable Americans seeking economic justice. In addition for advocating for consumer rights before policy makers and the courts, NCLC publishes a 16-volume legal practice series provides expert analysis in all major aspects of consumer and energy law.

Consumers Union
Headquarters Office
101 Truman Avenue
Yonkers, New York 10703-1057
(914) 378-2029
(914) 378-2992 (fax)

Washington Office
1666 Connecticut Avenue, NW
Washington, DC 20009-1039
(202) 462-6262 Suite 310
(202) 265-9548 (fax)

West Coast Regional Office
1535 Mission Street
San Francisco, CA 94103-2512
(415) 431-6747
(415) 431-0906 (fax)

South West Regional Office
1300 Guadalupe, Suite 100
Austin, TX 78701-1643
(512) 477-4431
(512) 477-8934 (fax)

- **The Commission should be vigilant in ensuring that consumers are receiving accurate and complete information from consumer reporting agencies about their security freeze rights. The Commission should also monitor CRAs and other vendors of identity theft prevention tools to ensure that marketing of ID-theft prevention packages that include the freeze do not, by misrepresentation or omission, mislead consumers about their freeze rights or the commercial products offered**.

- **The Commission should study the viability of an effective, convenient and secure one-stop shopping mechanism for placement and temporarily lifting of the freeze.**

- **The Commission should launch a consumer education effort to promote improved consumer understanding of the security freeze and clarify differences between the security freeze and the fraud alert.**

- **Federal legislation is important in providing for nationwide freeze rights, but must not preempt state laws providing more convenient, accessible and affordable freeze rights.**

1. Function of the Security Freeze in Preventing Identity Theft.

The security freeze offers the only effective means for consumers to prevent the most costly and difficult to detect type of identity theft—new account fraud.[4] By allowing consumers to prevent potential creditors and providers of other consumer services from accessing their credit files, identity thieves are will be unable to open up new accounts in the rightful consumer's name. The effectiveness of the freeze can be thwarted only by creditors that do not assess creditworthiness by accessing files held by the CRAs prior to issuing credit or services or by ineffective administration of the freeze by consumer reporting agencies (CRAs). Logically, however, the freeze can be assumed to be an effective new account fraud prevention tool for the same reasons that initially led to the development of the "fraud alert."[5] Putting lenders on notice that the credit-applicant may not be the rightful consumer should deter issuance of credit to fraudsters. The freeze, however, is far more effective than the fraud alert. It puts control over the credit file in the hands of the consumer, rather than the lender. Under the fraud alert, the lender is under a duty only to inquire whether the applicant is the rightful holder of the credit file; it may still issue credit despite the warning flag put in place by the consumer. By contrast, the freeze ensures that only with the rightful consumer's permission may lenders access the file in the first instance. The effectiveness of the freeze can be demonstrated by the efforts of the CRAs to market commercially developed freeze options (CDFOs). Equifax now markets its Credit Report Control as the

[4] *See* 2006 IDENTITY THEFT SURVEY REPORT 24, 5 tbl.2 (FED. TRADE COMM. 2007).
[5] 15 U.S.C. sec. 1681c-1(a)-(b).

most effective protection against ID theft.[6] Experian has also made available a CDFO and promoted it as a tool to prevent "unwanted activity."[7]

The Commission should be cautious in relying on statistical trends in identity theft to evaluate the actual effectiveness of the security freeze in preventing new account fraud. Such information may inform, but may not be conclusive. First, a number of variables can affect ID theft trends, such as the improvements or the lack thereof in internal data security procedures, the presence or absence of state notice requirements that may encourage more secure data systems, state laws regarding social security number privacy and the exceptions contained therein, and exogenous factors such as economic conditions that affect lending practices as well as trends in certain types of crimes that have been associated with the crime of identity theft. Thus, it will be difficult to discern a meaningful statistical relationship between a decline or rise in ID theft and the security freeze unless independent variables can be isolated using appropriate modeling tools.

Second, although 39 states and the District of Columbia now have security freeze laws, consumer awareness remains low, particularly in states that have only recently enacted freeze laws. No state law has required a state-wide consumer awareness campaign and the consumer reporting agencies, which up until recently opposed freeze laws, have a disincentive to promote awareness of the freeze—a product that competes with for-profit ID-theft prevention packages they offer. Even the Commission did not start to inform consumers of the freeze in its web-posted education pages on identity theft prevention until 2007, and its printed *Deter, Detect, Defend* brochure, recently widely mailed to postal service customers, still omits any discussion of the freeze. Consumers will remain at a disadvantage in learning about the freeze choice until the Commission gives it equal prominence with the other defensive measures described in its printed materials.

Third, as discussed in more detail below, more recently enacted state freeze laws establish terms for the freeze that make them more convenient and affordable than early state freeze laws with terms that rendered the freeze less convenient and permitted the CRAs to make the freeze more costly. Thus, although later-enacted state freeze laws have enhanced the affordability and convenience of the security freeze, encouraging its adoption, most of those laws have been in place for only a short period of time. The Commission should thus be cautious in relying on data derived from consumer adoption of the freeze under more restrictive state laws.

---

[6] Equifax includes "Credit Report Control" as part of its Equifax Credit Watch Gold package and as an add-on to other packages for an additional $2/month. *See* http://www.equifax.com/credit-report-lock ("Together with credit monitoring, restricting access to your Equifax credit report offers you the most effective product to prevent Identity Theft from ruining your credit.").

[7] *See* Press Release, *TransUnion's TrueCredit.com Announces Industry's First Instant Credit Lock*, Transunion, Sept. 18, 2007 available *at* http://newsroom.transunion.com/index.php?s=press_releases&item=433 ("Consumers across the nation have a new tool in their arsenal against fraud and identity theft. The introduction of TrueCredit Lock from TransUnion's TrueCredit.com marks the first time that U.S. consumers have the ability to instantly lock and unlock their TransUnion credit file to prevent unwanted activity. Once enrolled, use of the new feature is available to website subscribers online at no additional charge 24-hours a day, 7-days a week.").

Fourth, most state freeze laws making the right available to all consumers have only become effective in the last 14 months.[8] Moreover, it was two and a half years after the effective date of California's state freeze law (the first such law enacted), before the next state freeze law became effective.[9] Of the states providing freeze rights to all consumers, only seven have been available to consumers for more than two years. In summary, although consumer interest in the freeze is strong and growing as awareness improves, statistical relationships between the freeze and ID theft may be difficult to discern because of the difficulties in isolating independent variables that contribute to or deter identity theft, the limited consumer awareness of the freeze, and the limited time period over which more favorable freeze rights have been available to consumers.

Over time, data regarding creditors' thwarted attempts to access frozen credit files may provide more meaningful information about whether the freeze has likely prevented new account fraud, but it may be difficult in both the short- and long-term to assess effectiveness from national and statewide data on ID-theft trends. The Commission should begin collecting data from the financial sector, providers of consumer services that rely on credit reports, and the CRAs on the number of thwarted attempts to access credit file information from frozen files. However, even this data should be interpreted with the understanding that inadequate sample sizes may preclude any reliable conclusions. Until consumer adoption reaches significant levels, even this type of data may provide limited information.

2. Consumer Demand for the Security Freeze is Strong.

As Consumers Union noted in comments submitted in the Commission's inquiry regarding Social Security Number Use in the Private Sector, consumers overwhelmingly support security freeze rights.[10] First, of consumers who agreed that a remedy should be made available to SSN security breach victims, 68% identified the ability to freeze access to the consumers' credit files at no charge as their most preferred remedy. Only 12 percent preferred free credit monitoring—the remedy that some businesses offer to their customers when they suffer a breach. This suggests that consumers want remedies that do not impose a burden on them to routinely monitor their credit files to prevent ID theft. The freeze, unlike monitoring, allows a consumer to put in place a protection that requires no further activity to stop new account fraud. Consumers also overwhelmingly agree that lawmakers should adopt new protections to prevent ID theft. Nearly all consumers agreed that consumers should have the right to freeze access to their credit files to prevent new account fraud (97% total agreement, 85% strongly agreed).

---

[8] Of the states that have enacted laws providing freeze rights for *all* consumers, 20 of them have effective dates after January 2007. The law for one of those states, Massachusetts, became effective this month. Utah's law, and Washington State's law expanding the freeze to all consumers, do not become effective until September of this year.

[9] California's state freeze law became effective in January 2003. The next state to take action was Louisiana, whose freeze law did not become effective until July 2005.

[10] *See* Comments of Consumers Union, SSNs in The Private Sector – Comment, Project No. P075414, Sept. 5, 2007, at 7–8 (providing the results of a recent nationally representative consumer survey regarding social security number privacy and identity theft).

The Commission should be cautious in inferring the degree of consumer demand for the security freeze by assessing adoption rates. As discussed below, some existing state freeze laws and CDFOs create structural barriers in freeze procedures that may impede adoption despite strong demand.

3. Attributes of Effective State Security Freeze Laws.[11]

State laws that are likely to be the most effective in meeting consumer demand for the security freeze provide affordable, accessible and convenient security freeze rights to all consumers.

a. Affordability

Critical to consumer adoption of the security freeze is low cost placement, temporary lifts and removal. While the first wave of state security freeze laws generally set a maximum fee of $10 per credit bureau for each placement, temporary lift and removal of the freeze, the trend among states more recently enacting freeze laws is to provide the freeze at far lower cost. Of the 20 states enacting freeze laws applicable to all consumers with effective dates of January 2007 or earlier, 15 set fees of $10 or more per bureau for each placement, lift and removal. By contrast, of the 16 jurisdictions that have enacted freeze laws applicable to all consumers with effective dates on or after June 2007, all but 5 set fees at aggregate levels lower than $10 to place, lift and remove.[12] Montana permits a fee of no more than $3 to place and lift the freeze. Indiana's freeze law, effective last September, prohibits CRAs from charging any fees.

To understand the potential benefits of affordable freeze rights and how the size of fees may encourage or deter adoption, consider the costs under different state laws for a consumer who places a freeze at three CRAs and lifts it twice at each CRA:

Cost to Place the Security Freeze at All Three CRAs & Lift Twice at All Three CRAs

California	$90 ($10 to place, $10 to lift)
Delaware	$60 ($20 to place, no fee to lift).
Colorado	$60 (first time placement is free, $10 to lift)
Hawaii	$45 ($5 to place, $5 to lift)
New York	$30 (first time placement is free, $5 to lift)
Dist. of Col.	$30 ($10 to place, no fees to lift)
Montana	$27 ($3 to place, $3 to lift)
Indiana	$0 (no fee is permitted to place or lift)

[11] For a complete listing of the provisions of security freeze laws adopted by 39 states plus the District of Columbia, see http://www.consumersunion.org/campaigns//learn_more/003484indiv.html.

[12] Jurisdictions with laws that became effective on or after June 2007 that provided for aggregate fees lower than $10 each to place, lift and remove are: the District of Columbia, Hawaii, Indiana, Maryland, Massachusetts, Montana, Nebraska, New Mexico, Tennessee, and West Virginia. While Nebraska's freeze law sets a higher fee ($15) to place than most early-enacting states, it prohibits fees for temporary lifts and removal, making the cost of the freeze far lower for consumers over time. States setting fees at or above $10 each to place, lift and remove are: Oregon, Texas, Washington, and Wyoming. For Utah, the fees must be "reasonable."

For two-adult families where protecting both credit files is important to future creditworthiness, the freeze must be placed for each adult, and lifted for each adult when joint credit is sought, thus doubling the fees noted above. For working families of modest income, state regimes setting lower fees, or more favorable fee structures generally, will be more appealing.

Consumers Union believes that initial-placement fees set at no more than $3 to $5 per CRA encourage greater adoption of the freeze by putting the freeze in reach of consumers of modest means. Moreover, setting nominal or no fees for temporarily lifting the freeze helps removes financial uncertainty about the impact of placement on future costs of lifting the freeze for expected or unexpected efforts to access credit. Low or no lift fees render the freeze more appealing to consumers who expect to access credit several times in the upcoming years and reassure consumers who may be unsure of their future credit needs.

b. Accessibility

1) Available to All Consumers. Freeze laws that make the security freeze available to all consumers reduce consumer confusion about who is eligible to place the freeze and encourage greater adoption of the freeze. Of the 40 jurisdictions that currently provide freeze rights by law, all but five make that right available to all consumers, regardless of whether they have been, or are at risk of becoming, a victim of identity theft.[13] Providing the right to all consumers eliminates the definitional ambiguities associated with the terms "victim" and "identity theft" and does not burden victims of ID theft with the need to prove their victimization in order to qualify for the freeze.[14]

2) Clear and Consistent Information about Freeze Rights. All three CRAs now provide at least discernible links from their home pages to information about the security freeze elsewhere on their websites, and provide a state-by-state listing of fees and rights. However, FTC should be vigilant in ensuring that CRA websites do not mislead consumers about their security freeze rights. For example, if CRAs offer a CDFO as part of a larger bundle of ID-theft prevention services available for a monthly subscription fee, it is important that those CRAs prominently disclose that consumers may select the standalone freeze, which for most consumers is available by state law, and explain what, if any, difference there is between those services. For example, Consumers Union is concerned that Equifax's current security freeze page downplays the availability of the security freeze of right, and more prominently features and promotes what appears to be a nearly identical product, Equifax Credit Report Control, available only by buying a far more costly credit monitoring service.[15] The CRA does not provide consumers with easy access to information

[13] Arkansas, Kansas, Mississippi, and South Dakota currently provide security freeze rights only to victims of identity theft. The freeze law in Washington State currently covers only ID-theft victims, but will expand to cover all consumers on Sept. 1, 2008.

[14] For example, the Kansas Security Freeze Statute requires victims to submit to CRAs, along with their freeze request, a "valid copy of a police report, investigative report or complaint the consumer has filed with a law enforcement agency about unlawful use of such consumer's personal information by another person."

[15] *See* Equifax, *supra note* 3. Equifax's webpage for the security freeze prominently highlights its CDFO under the bold heading **"Freeze & monitor your file online"** followed by the following text: "Simple &

about what, if any, meaningful distinction there is between its "voluntary security freeze program," available for $10 to place, lift and remove, and Credit Report Control.[16]

Additionally, it is important that information provided on CRA websites provide a balanced representation of the advantages and disadvantages of placing a freeze and what advantage, if any, the addition of credit monitoring provides. TransUnion, which promoted the advantages of its CDFO in a prior press release,[17] discusses only the perceived downsides of placing a freeze, omitting any discussion of how the freeze prevents new account fraud.[18]

Easy when you purchase Equifax Credit Report Control™." By contrast, the voluntary and state-mandated freeze options are highlighted under the bold heading **"Suspect Fraud"** followed by the following text: You may place, temporarily lift, or remove a security freeze on your Equifax credit report under state law or the Equifax voluntary security freeze program." Two concerns arise from the juxtaposition of these two products and the context in which they are provided: First, consumers may be led to believe that the state-mandated or voluntary freeze options are only available to those consumers who suspect they are risk; Second, consumers may be led to believe that the products are somehow different in their effectiveness or function.

[16] Only after navigating through several pages dedicated to its commercial freeze product can consumers find the answer to this question. *See* Credit Report Control FAQs. Consumers must first go to: http://www.equifax.com/credit-report-lock and click on "Sample Equifax Credit Report Control." Only after navigating two additional pages will consumers see the following FAQ:

> " . . . The primary differences between Equifax Credit Report Control and security freeze under state law are the ease of online access and the availability of one low annual fee for services provided by Equifax Credit Report Control. With Equifax Credit Report Control, you can easily lock and unlock your Equifax credit report online whenever you wish. Changes to lock, unlock, and request specific company access to your credit report are available at no additional charge, unlike under state laws where typically a fee is charged for each transaction (unless you are an identity theft victim)."

[17] *See* Transunion, *supra* note 4.

[18] *See What is a Security Freeze*, http://www.transunion.com/corporate/personal/fraudIdentityTheft/preventing/securityFreeze.page

> When a Security Freeze is added to your TransUnion credit report, all third parties, such as credit lenders or other companies, whose use is not exempt under law will not be able to access your credit report without your consent.
>
> The Security Freeze may delay, interfere with or prohibit the timely approval of any subsequent request or application you make that involves access to your credit report. This may include, but is not limited to, new loans, credit, mortgages, insurance, rental housing, employment, investments, licenses, cellular phone service, utility service, digital signature service, Internet credit card transactions and extension of credit at point of sale.
>
> Additionally, while your report is frozen, companies that provide consumer data to TransUnion will not be allowed to update name, address, SSN and date of birth information on your credit report. If there are any changes made to your name or address while your file is frozen, please notify TransUnion directly so that we can update your personal information and have the security freeze rules and any applicable fees applied for that state. The changes should be mailed to TransUnion as instructed in the Security Freeze information letter you will receive after your file is frozen.
>
> If you wish to apply for a new credit account or other credit relationship, and the prospective lender or company needs to access your credit report, you will need to either remove or

While it is essential that consumers fully understand the implications, both pro and con, of placing a freeze, providing only negative disclosures badly disserves consumers. The Commission should take steps, including enforcement measures where necessary, to ensure that the information on the CRA websites is truthful and non-misleading and to encourage more prominent placement of clear and understandable information about consumers' security freeze rights under law. Consumers should be provided complete and balanced information both about the availability of the freeze as a matter of right, the advantages and disadvantages of placing a freeze, and what distinction there is, if any, between CDFOs and the voluntary or state-mandated freeze products.

3) Consistent Documentation Requirements Improve Accessibility

In addition, accessibility of the freeze requires more consistent documentation requirements for placement of a voluntary freeze options. Under their CDFOs, each CRA requires different types of consumer documentation before they will place the freeze. For example, Equifax requires: "name, address, date of birth, Social Security Number, and proof of current address such as a current utility bill." Experian requires that same information, but also requires previous addresses for the past two years and a copy of a government issued identification card. For proof of address, Experian will accept only a utility bill, bank or insurance statement. Meanwhile, Transunion will accept a state issued ID as proof of current residence. These differing documentation requirements are likely to confuse consumers and reduce accessibility of the freeze. The Commission should work with the CRAs to encourage them to adopt a single set of consistent and easy-to-meet documentation requirements for the freeze.

c. Convenience.

The most effective security freeze allows for convenient placement and temporary lifting of the freeze. Convenience encompasses both the ease of the means of placement and lifting as well as the response time of the CRA to lift-requests. However, even the most convenient security freeze procedures still require consumers to place and lift the freeze separately at each bureau—a cumbersome process that can deter adoption.

First, state freeze laws and CDFOs that allow placement of the freeze by secure electronic connection, phone and regular mail are more likely to encourage consumers to take advantage of the freeze than those that require placement by mail or certified mail. By requiring a trip to the post office and an additional financial cost, placement via certified mail imposes barriers to adoption of the freeze without any added security benefit.[19] By contrast, placement by telephone or by secure electronic means is far more convenient for consumers.

---

temporarily lift the Security Freeze unless the situation is one of those exempt from Security Freezes as defined by law.

[19] Other than providing some information, of questionable reliability, about the sender's zip code, certified mail provides no assurance that the sender of the freeze request was the rightful consumer. The U.S. Postal Service does not require consumers using certified mail to present any identification.

Currently, two states, Minnesota and North Dakota, require the CRAs to make telephone placement available to consumers. The District of Columbia requires phone placement by January 31, 2009. Electronic placement provides even greater convenience for those consumers with access to the Internet. Tennessee also requires CRAs to allow placement by electronic means by Jan. 31, 2009. It is important to note that technologically, this is clearly feasible. Equifax promotes the flexibility and convenience of online access to its Credit Report Control product as allowing for electronic locking and unlocking.

Second, effective state freeze laws and CDFOs make it convenient for consumers to temporarily lift the freeze by allowing consumers to do so via phone or secure electronic connection and by requiring that the freeze be lifted within 15 minutes. Lift procedures that require significant advance planning before consumers can access their credit files deter adoption of the freeze. Although many state freeze laws give CRAs the option of providing other means of temporarily lifting the freeze, most require only that the CRAs offer lifts via mail, providing up to three days to lift the freeze upon receipt of the request. In such states, after accounting for mail delays, consumers must request the freeze *at least* one week in advance of the date on which they want the freeze lifted. Such restrictions disserve both consumers and those who wish to provide them credit.

As demonstrated by the growing trend of 15-minute lift requirements in more recent state freeze laws, consumers and creditors are demanding tools that give consumers the flexibility to thaw their freeze nearly instantly at the same time they wish to access credit. Ten states and the District of Columbia require that the 15 minute lift method be in place by either September 2008 or January 2009.[20] Several other states have enacted laws contemplating implementation, or future regulations requiring, a 15-minute lift.

There appear to be no viable security reasons that would preclude either electronic placement or lifting of the security freeze. CRAs now routinely provide secure electronic means for consumers to submit to them sensitive personal information for purposes of accessing credit reports and purchasing credit monitoring services. The 15 minute lift, in combination with lift-requests via phone or secure connection, allows consumers to enjoy the security of a freeze while preserving quick access for the rightful consumer to use his or her credit file.

It is also clear that the 15-minute lift is feasible. At least one of the CRAs is already offering lifts more promptly than in 15 minutes to those customers who purchase that feature as part of a larger package of credit monitoring. Equifax's Credit Report Control is available for $2 a month to those consumers who purchase a credit monitoring package priced at $9.95 or more per month or as part of a $14.95/month package. The web description of that product promises that lifts can be made "immediately." In addition, in a Nov. 15, 2007 letter from the Consumer Data Industry Association to Foster Pepper, LLC in connection with the State of Delaware's inquiry into implementation of its freeze law,

[20] The following states require a 15-minute lift following request via phone or secure electronic means by, or earlier than, January 31, 2009: Delaware, District of Columbia, Indiana, Maryland, Montana, New Mexico, Nebraska, Tennessee, Utah, Washington, and Wyoming. Four states either set a 15 minute lift as a regulatory goal or contemplate that CRAs will provide a 15-minute lift: Massachusetts, Minnesota, New Jersey; and North Dakota

CDIA noted that "a 15 minute lift is feasible and the industry is prepared to meet the statutory target" under Delaware law. [21]

In evaluating the convenience provided for both consumers and merchants who sell goods on credit that the 15 minute lift is intended to facilitate, it is important to note that the lift must be available during the wide span of hours and days when consumers engage in commerce. To ensure this, state and federal laws should not look to Utah as the model. This is because Utah exempts from the 15 minute lift those requests received outside of normal business hours. The District of Columbia, West Virginia and Delaware have no such exemption for "business hours." The D.C. and West Virginia laws do have carefully crafted exceptions for certain other things such as disaster, system failure, and regular maintenance. Many of the states that mention normal business hours as an exemption to the 15 minute rule define business hours quite broadly: seven days a week, from 6 am local time to 9:30 pm local time.[22]

To summarize, the state laws that best facilitate adoption of the freeze by making the freeze affordable, accessible and convenient, and therefore prevent new account fraud have the following features: eligibility for all consumers; low or no fees to place, lift and remove the freeze; placement and lifting via phone or secure electronic means; and temporary lifts within 15 minutes at any time or at least during reasonably-defined business hours, including nights and weekends. To enhance the accessibility of the freeze, the Commission should take steps to ensure that information about freeze rights is prominently and clearly displayed on CRA websites and that the marketing information and disclosure provided about both state-mandated freeze rights and voluntary freeze options (including those commercial products offered as part of a package) are truthful and non-misleading.

3. The Commission Should Research Means of Enhancing the Convenience of Placing and Lifting of the Security Freeze.

One of the burdens imposed on consumers seeking to place or lift a freeze is the need to do so with each CRA separately. Consumers failing to place the freeze at all three bureaus will not be fully protected from new account fraud. Likewise, consumers failing to lift their freeze at all three CRAs when they want to access credit may find themselves unable to access credit if the creditor relies on a CRA where the freeze remains in place. Yet, having to place and lift the freeze at each bureau imposes burdens on consumers that may unnecessarily limit adoption of the freeze.

We encourage the Commission to study the viability of creating "one-stop shopping" mechanisms that allow consumers to place and lift the freeze for all three CRAs either simultaneously or for each bureau independently, and, at a minimum, access information about how to place the freeze from a single central source. As noted above, information about the security freeze is difficult to find on the CRAs' websites and where it exists at all, the information is at best confusing, and at worst misleading. The mechanism established for free annual credit reports may serve as a model. At annualcreditreport.com, consumers can

[21] *See* Letter from Eric Ellman, CDIA, to Foster Pepper, Nov. 15, 2007. On file with commenters.
[22] Montana, Nebraska, New Mexico and Tennessee all require 15 minute lifts during the hours of 6am to 9:30 pm local time.

now request their credit reports online, by phone or by mail. The Commission should evaluate how that model may be applied to establish a one-stop shopping mechanism that allows consumers to effectively, conveniently and securely place and temporarily lift a security freeze.

4. The Commission Should Launch an Educational Campaign to Enhance Awareness of the Security Freeze and Educate Consumers About the Differences between the Security Freeze and the Fraud Alert.

As discussed above, consumers have access to only limited and sometimes inconsistent or unclear information about the advantages and disadvantages of the security freeze. Some state attorney general offices in states with freeze laws offer consumers a dedicated web page about their security freeze rights and placement "how-tos." But most states have not yet made clear and easily accessible information about the freeze available to state residents. No state law has provided funding for a consumer education campaign on the security freeze nor required the CRAs to provide specific information on their websites.

In addition, many consumers are unaware of the functional differences between a security freeze and a fraud alert, believing a fraud alert protects them from new account fraud. The confusion grows when entities notifying customers about a security breach involving their personal information provide confusing information about ID-theft prevention tools.[23] Some offer free credit monitoring for a period subsequent to the breach and most provide information about the fraud alert—information that is not always accurate.[24] Rarely, if ever, are consumers provided information about the security freeze at a time when they may be most receptive to it.

Although we welcome the recent addition of security freeze information on the Commission's website, more must be done to ensure consumers are fully informed about the security freeze and to correct for inadequate information provided by the CRAs and the states. We urge the Commission to launch a national consumer education effort that informs consumers, law enforcement, the business community and FTC's existing partners about the availability of the security freeze and how it functions, the differences between a security freeze and a fraud alert, how they may place a freeze.

4. Federal Legislation

The Commission inquired about the advantages and disadvantages of federal legislation establishing a nationwide security freeze system. We support the creation of a national system that ensures that consumers in all states, including those residing in states with no state freeze rights or rights limited solely to ID theft victims, have a federal right by law to place, lift and remove a security freeze. While we have publicly applauded the CRAs

[23] *See e.g.*, Identity Protection, Georgetown University, http://www1.georgetown.edu/uis/security/identity/safaqs/#Q2 (discussing free credit monitoring and the fraud alert). In January 2008, Georgetown University notified students, alumni and faculty that an unencrypted hard drive containing SSNs of about 38,000 individuals was stolen from a University office.
[24] *See id.* Georgetown's website erroneously informs consumers that the fraud alert requires would-be creditors to contact consumers prior to issuing credit.

for voluntarily making the freeze available to consumers in these states, we strongly believe that consumers will be best protected by a federal law that prevents those services from being withdrawn or from being offered solely as part of a package of expensive ID-theft prevention tools.

Any federal legislation must have the attributes of affordability, accessibility, and convenience discussed in Section 2 of these comments, including eligibility of all consumers; low cost placement, lifts and removal; placement and lifting via phone and electronically; and temporary lifts within 15 minutes of an electronic or phone request made at any time or at least during reasonably defined business hours that include nights and weekends. Importantly, any federal legislation must establish only a floor on consumer protection, not a ceiling, to ensure that consumers in states with more favorable freeze provisions (lower fees, convenient placement and quick response lifts) can continue to avail themselves of them. Consumers enjoying freeze rights with no or nominal fees should not have those rights curtailed by federal legislation.

Conclusion

Thank you for this opportunity to provide comments on the effectiveness and importance of the security freeze. No other ID theft prevention tool can be as effective as the freeze in preventing new account fraud. Key to that effectiveness is awareness and adoption. We urge the Commission to take steps that help reduce or eliminate barriers to adoption, including vigilantly monitoring CRA websites and marketing information to ensure consumers receive truthful and non-misleading information about the freeze, exploring the viability of a central source for placing, lifting and removing the freeze for all three CRAs and enhancing educational efforts to raise awareness of the freeze and improve consumer understanding of the differences between the freeze and the fraud alert.

Respectfully submitted

Jeannine Kenney
Senior Policy Analyst
Consumers Union
Washington, D.C. Office
(202) 238-9249

Gail Hillebrand
Senior Attorney
Consumers Union
West Coast Regional Office
(415) 431-6747