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CONSUMER NEWS

Troy Stark

FTC Warns Consumers to Protect Finances from Y2K Problems

By now, most people have heard horror stories regarding the potential computer meltdown that could take place when the calendar changes from December 31, 1999 to January 1, 2000. Though most of the hype surrounding the Year 2000 ("Y2K") computer problem can be attributed to the doomsayer mentality which accompanies major calendar changes, there is one area in which the Federal Trade Commission ("FTC") warns consumers to take care.

In a recent consumer alert bulletin entitled *Y2K? Y 2 Care: Protecting Your Finances from Year 2000 Scam Artists*,¹ the FTC has warned consumers that personal finances may be at risk, not only because of potential computer problems, but also because of opportunistic criminals. Accordingly, understanding the Y2K problem, its effects, and some possible solutions will help consumers secure their financial future well into the next millenium.

Many people now realize that the millenium bug, as it is often called, is caused by the inability of some computers to translate a "00" entered into their two-digit year field as the year 2000. Computers with this problem interpret "00" as the year 1900, which can render most, if not all, of their date-sensitive software useless.²

The Y2K problem could affect personal finance in a number of ways. In fact, the area of personal finance presents the most significant consumer-related Y2K risks.³ Many banks, credit card companies, and employee benefits plans rely heavily on date-dependent software. An employee may participate in a retirement plan that relies on computer programs to determine eligibility and vesting requirements. If that computer program is rendered inoperative by a Y2K glitch, the employee's financial information and security could be jeopardized.⁴ As a result of this prospect, misinformation and confusion regarding what must and can be done to rectify the problem has proliferated.

The FTC's concern, quite simply, is that this confusion has created a minor hysteria upon which scam artists can prey. Many of these scams involve "customer relations" personnel or Y2K "compli-

ance officers" who call individuals and businesses requesting personal financial information. The callers have been known to ask for credit card numbers, bank account information, and personal identification numbers ("PINs"), all of which, if given, could lead to a lifetime's worth of financial woes. These scammers claim to be helping the consumer's financial institution comply with federal mandates requiring Y2K compliance and suggest the information is vital to their efforts.

Other involve unscrupulous vendors who sell products purporting to fix nonexistent Y2K computer problems.⁵ These so-called "consulting firms" focus their efforts on small businesses and individual consumers. In two such instances, one involving three Australian companies and another involving a Canadian firm, consumers have filed suits for seeking damages for fraud.⁶ In some situations, however, catching these con artists may not be so easy.

Likewise, the effects of the Y2K bug on personal finances could be tremendous. Initially, part of the economic impact will result from the transient nature of many scam artists. Catching up with offenders may be a major obstacle for law enforcement officials as most of these criminals are able to move from place to place on a moment's notice. Even if a complainant is able to locate the defrauding party, there is no guarantee assets will remain to pay resulting judgments.⁷ In either scenario, the chance of recovery is low and consumers are left to bear the financial burden exacted by Y2K scam artists.

Consumer finances may also be affected by computer malfunctions that result in the loss of important financial data. This could lead consumers who participate in employee benefits programs and who maintain personal savings and retirement accounts to file law suits seeking restitution for amounts lost and for tax liabilities which could result from untimely or inaccurate disbursements of retirement funds.⁸ There are literally trillions of dollars tied up in retirement plans and personal bank accounts.⁹ Aggrieved consumers are likely to take the steps necessary to ensure their financial security. The cost of litigating these claims alone could be staggering and may negatively impact pension and retirement fund assets and financial institution liquidity.

Accordingly, rather than reacting to computer malfunctions after the fact, consumers should take action before the millenium bug has an opportunity to threaten their financial stability. Consequently, the FTC has recommended a variety of ways consumers can protect themselves against Y2K scam artists and financial institution computer malfunctions.

For example, dealing with would-be scam artists is probably the

easiest part of the solution. First, consumers *should not give personal information out* over the telephone or the Internet, including PINs and credit card numbers, unless the institution they are dealing with is reputable and they initiated the contact.¹⁰ Trusting those who call seeking personal financial information, regardless of whether their story sounds legitimate, could lead to severe financial loss. Scam artists are very good at what they do and often have answers to every objection. If necessary, a consumer should take down the caller's information and offer to call back after checking the company's credentials.¹¹ A quick call to the local Chamber of Commerce or any other consumer protection agency should confirm the legitimacy of the caller's company. If the consumer is unable to discover any information, it may be a sign that the business is of a questionable nature. On the other hand, if complaints have been lodged or the business is in good standing, the consumer will be better off for having called. At any rate, individuals need to exercise prudence when confronted with advice and products purporting to solve Y2K problems.

The FTC also warns consumers to watch out for unauthorized credit card charges and checking or savings account withdrawals.¹² Such charges could be the result of computer problems or of scam artists who have gained access to personal financial information. In either case, consumers who notice questionable charges against their credit card or bank accounts should immediately contact their financial institution and dispute the transaction. Many credit card issuers have specific rules and regulations regarding disputed charges that need to be followed.¹³ Likewise, there are time limits in most states regarding when a disputed charge must be brought to the attention of a bank or financial institution.¹⁴ Consumers should call their financial institutions to eliminate any confusion regarding those procedures.

Consumers can also protect their finances by ensuring that their financial institutions and employee benefits providers are Y2K compliant. Federal regulations require financial institutions to fix potential computer problems before the end of 1999 and to disclose their progress toward that end. Accordingly, consumers should call their banks, benefits providers and investment managers and make inquiries regarding Y2K preparedness. When confronted with lagging financial institutions, consumers should move their money into Y2K compliant firms.¹⁵

The FTC suggests one final way to protect investments; keep accurate and complete financial records from the months immediately prior to and after New Years' Eve 2000. This includes keeping receipts for all deposits and withdrawals from checking and savings accounts,

bank statements, records of significant securities purchases and sales, and all credit card receipts and statements. Keeping such records will provide adequate proof in the event that electronically stored financial data is compromised.¹⁶

Although the millenium bug presents a host of problems for the uneducated consumer, adequate steps can be taken to prevent any major financial crisis. Keeping a cautious eye out for Y2K consumer fraud and being diligent with respect to one's financial institutions will prevent most, if not all, potential mishaps. To find out more information regarding the Y2K problem and protecting personal finances, please contact the FTC at 1-888-USA-4-Y2K (toll free). To report Y2K consumer fraud, call the FTC's toll-free consumer help line at 1-877-382-FTC-HELP.

Endnotes

1. Bureau of Consumer Protection, Federal Trade Commission, *Y2K? Y 2 Care: Protecting Your Finances from Year 2000 Scam Artists* (March 1999)(available at <<http://www.ftc.gov/bcp/online/pubs/y2k/y2k-scam.htm>>).
2. See Mark L. Silow, *Tick...Tick...Tick...Tick...Tick Y2K and ERISA Retirement Plans; Dept. of Labor Warning Plan Parties to be Prepared*, *LEGAL INTELLIGENCER*, Apr. 20, 1999, at 7.
3. See Paul Kiteley and John Millar, *Businesses, Consumers must be on Lookout for Y2K Fraud*, *LONDON FREE PRESS*, Aug. 27, 1999, at D3.
4. See Jeffrey S. Klein and Nicholas J. Pappas, *Fiduciary Liability and the Year 2000 Computer Bug*, *NEW YORK LAW JOURNAL*, Apr. 5, 1999, at 3.
5. See Kiteley and Millar, *supra* note 3, at D3.
6. See *id.*
7. See *id.*
8. See Klein and Pappas, *supra* note 4, at 3.
9. See Silow, *supra* note 2, at 7.
10. See Bureau, *supra* note 1.
11. See Kiteley and Millar, *supra* note 3, at D3.
12. See Bureau, *supra* note 1.
13. See *id.*