



February 8, 2008

Ms. Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Dear Ms. Rupp:

RE: CCUL Comments on Notice of Proposed Rulemaking Part 717—
Procedures to Enhance the Accuracy and Integrity of Information
Furnished to Consumer Reporting Agencies under Section 312 of the Fair
and Accurate Credit Transactions Act

On behalf of the California and Nevada Credit Union Leagues, I appreciate the opportunity to comment on the proposed regulations and guidelines issued by the National Credit Union Administration (NCUA) and other agencies (collectively, “Agencies”) to implement Section 312 of the Fair and Accurate Credit Transactions (FACT) Act of 2003. These guidelines and rules are intended to enhance the accuracy and integrity of information furnished to consumer reporting agencies. By way of background, the California and Nevada Credit Union Leagues (the Leagues) are the largest state trade associations for credit unions in the United States, representing the interests of more than 400 credit unions and their 9 million members.

Background

In December 2007, the NCUA, the Federal Trade Commission (FTC), and other federal banking agencies jointly issued proposed rules to implement §312 of the FACT Act. While §312 makes a number of technical amendments to the Fair Credit Reporting Act (FCRA), two revisions require regulatory rulemaking to implement, which are the subject of this proposal. First, the Agencies are required to jointly issue guidelines and regulations that their regulated entities must follow to ensure the “accuracy and integrity” of information they furnish to consumer reporting agencies (CRAs). Second, the Agencies must identify the circumstances under which furnishers must investigate disputes received directly from a consumer regarding the accuracy and integrity of information contained in his/her consumer report.

The Leagues’ Position

Overall, the Leagues believe that the proposed rules are reasonable, in that they will help provide improved accuracy and completeness of consumer credit reporting information while not imposing unfair or excessive regulatory burdens on the furnishers of that information. We commend the Agencies for including

provisions that recognize furnishers' policies and procedures should be appropriate to the nature, size, complexity, and scope of the furnisher's activities; this acknowledges that many credit unions (primarily small credit unions) may not need to develop extensive policies and procedures. In addition, we feel that the provisions regarding consumer "direct dispute" with furnishers—including the exceptions to those provisions—are balanced. Our only substantial concern lies with some of the accuracy and integrity provisions of the proposal, which is addressed below.

Accuracy and Integrity Provisions

The proposal outlines two approaches for implementing the "accuracy and integrity" provisions: 1) the Regulatory Definition approach; and 2) the Guidelines Definition approach. The material difference between these two approaches is how the terms "accuracy" and "integrity" are defined and whether these definitions are placed within the regulation or within the guidelines.

The Leagues recommend that the Guidelines Definition approach be adopted, as this would provide additional flexibility for credit unions and other financial institutions in crafting their policies and procedures. As credit unions generally follow guidelines to the same extent as regulatory requirements, this would not significantly impact the goal of the FACT Act regarding consumer credit reporting information. In addition, we believe that the definition of "integrity" under the Guidelines Definition approach reflects a more "real world" application, in that it recognizes the unintentional (and usually temporary) errors or omissions that sometimes occur in reporting consumer credit information.

Our greatest concern lies in the definition of "accuracy" contained in both the Regulatory and Guideline Definitions. Both approaches define accuracy to mean that "any information that a furnisher provides to a CRA about an account or other relationship with the consumer reflects without error the terms of and liability for the account or other relationship and the consumer's performance or other conduct with respect to the account or other relationship." We are very concerned with the words "without error," and respectfully suggest that they be deleted from the proposal.

We understand the purpose of this regulation is to provide for fewer errors in credit reporting. However, we believe that care should be taken in crafting the final regulation to ensure that credit unions and other financial institutions do not risk violation of the regulation—or litigation—for an honest mistake that is promptly corrected. We believe that it is not inconceivable that such an inflexible definition of "accuracy" could become a disincentive for many financial institutions to continue to report credit information. This in turn would lead to less accurate and complete credit information available to lenders.

Even if the words “without error” are deleted, the definition of “accuracy” will still clearly imply that errors that affect the overall quality of the information would be prohibited. The Leagues believe that minor errors that do not affect the overall quality of the information may occur and should not be considered a violation of this requirement, especially if it is included in the regulation, as opposed to the guidelines. We suggest that another approach would be to modify the definition to clarify that minor errors will not be considered a violation.

In closing, I would like to thank the Agencies for the opportunity to offer our comments and concerns. We appreciate and applaud these efforts to provide consumers with greater control over their credit information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Cheney', with a long horizontal flourish extending to the right.

Bill Cheney
President/CEO
California and Nevada Credit Union Leagues