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January 31, 2001

Via Facsimile and Regular First Class Mail

Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue
Washington, DC 20580

Re: Proposed FCRA Interpretations

Dear Sir or Madam:

First Union Corporation ("First Union") is a diversified financial services holding company with approximately \$250 billion in assets. Its subsidiaries provide a wide range of traditional bank, securities brokerage and insurance products and services to millions of consumers and businesses nationwide. We appreciate the opportunity to address certain issues raised by the Commission's proposed interpretations (the "Proposal") of the federal Fair Credit Reporting Act ("FCRA").

As a member of numerous financial services industry trade associations, First Union has had the opportunity to provide input into the comment letters submitted by some of those groups. As such, we will not reiterate at length the points discussed in detail in such letters, though we commend in particular to the Commission's attention those of the Financial Services Roundtable and VISA U.S.A..

There are, however, several points of particular significance which First Union believes warrant its independent comment.

The Need for Consistency With The Banking Agencies' GLBA Regulations

Last year's process of adoption of regulations implementing Title V of the Gramm-Leach-Bliley Act ("GLBA") was marked by an almost unprecedented level of cooperation and coordination among the Commission and the federal bank regulators. As a result, diversified companies whose businesses are under the jurisdiction of multiple regulators have a largely consistent set of rules under which to implement their GLBA compliance.

First Union is concerned that the Commission's adoption of the Proposal at this time would mark a step backwards from that commendable precedent. As the Commission is undoubtedly aware, the federal bank regulators are reportedly considering temporarily withdrawing and re-proposing their FCRA affiliate sharing regulations in order to obtain further comments on several issues raised in the initial comment process. We are concerned that a decision by the Commission to proceed at this time, without the benefit of insights gained in the bank agencies' renewed comment process, will create an unnecessary risk of unintended inconsistencies between its interpretations and the bank agencies' subsequent FCRA regulations.

Effective Date

In light of the detailed new disclosures required under the Proposal, First Union believes it is critical, regardless of when the Commission proceeds, that institutions be allowed a reasonable period of time to implement compliance procedures. Again, First Union encourages the Commission to proceed in a manner which will maximize the level of coordination with the bank agencies' regulations.

Definition of Opt-Out Information

First Union believes that a clear exception should be created to exclude from this definition information provided to an affiliate pursuant to a consumer's consent. Many modern "package" type services, such as First Union's "CAP" Account, which combines traditional money market and brokerage features, can only be provided if affiliates can freely share both transaction and "other" credit-related information without fear of inadvertently becoming "consumer reporting agencies". Similarly, the ability of institutions to efficiently offer cross marketing programs (e.g., a pre-approved credit card offer to a recently approved mortgage loan customer) depends on the ability to routinely exchange customer information. Information shared for such purposes pursuant to a limited and informed written, electronic or oral consent should be expressly excluded from the definition of "opt out information".

Time Within Which Opt Out Must Be Honored

The Proposal requests comment on whether a regulatory deadline of 30 days within which an institution must implement a customer's opt out directive is necessary or warranted. First Union believes it is neither, and that a more flexible "reasonable time" standard is appropriate. By opting out under any federal or state law, customers send an obvious message that they do not wish to receive marketing solicitations, or that they wish to receive them only via specified means. In today's extremely competitive financial services industry, only top quality customer service ensures customer loyalty. This includes promptly and efficiently executing a customer's instructions. As such, institutions have ample motive to honor a customer's opt out direction as promptly as is reasonably possible under the particular circumstances. Nevertheless, circumstances in a

given instance may make it operationally impossible to comply with a rigid 30 day deadline.

Duration of Opt-Out

The Proposal provides that an opt-out continues to apply to the information described in the applicable opt-out notice until revoked by the customer in writing, or, if the customer agrees, electronically, as long as the customer's relationship with the company continues. First Union believes the Commission should not preclude a customer from orally revoking an opt-out. The percentage of customers who use telephone customer service numbers in lieu of personal "in branch" visits or correspondence has grown dramatically in recent years, and many routine matters are now handled over the phone. If a customer wishes to call and orally revoke his or her prior opt out and an institution wishes to rely on that revocation, both should be free to do so.

Thank you again for your consideration of the views presented above. Please feel free to contact the undersigned at your convenience should you wish to discuss any of our comments in further detail.

Respectfully submitted,

FIRST UNION CORPORATION

By: _____


William H. Finlay
Vice President and Assistant General Counsel

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