

June 10, 2005

Proposed Rule for FDICIA Disclosures, Matter No. R411014
Federal Trade Commission/ Office of the Secretary
Room H-159 (Annex A)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Secretary:

Our credit union has over \$400 Million in total assets and principally represents state, county and university employees. Credit Union 1 has been privately insured since January 3, 1990. I would like to thank the Federal Trade Commission for the opportunity to comment on the proposed regulations and offer the following for your consideration:

Acknowledgement of Disclosure

In 1994, Credit Union 1 complied with the requirements of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), by mailing three sequential notices to our then-current members, seeking their signed acknowledgments recognizing the credit union's lack of federal share insurance. Since that time, we have made every effort to comply with the acknowledgment of disclosure requirement of FDICIA with respect to new members joining the credit union.

Unfortunately, the records supporting our compliance with FDICIA in 1994 have been destroyed. We believe that your agency's proposed requirement to obtain such notices over again, due to the lack of proof of our earlier compliance, would impose an excessive regulatory burden and cost our member-owners hundreds of thousands of dollars in postage, printing, collating and personnel costs.

All new members joining the credit union since 1994 have acknowledged the fact that the credit union is privately insured by signing a membership card which states "Credit Union 1 is not Federally insured and if this institution fails, the Federal Government does not guarantee that you will get back your money".

It seems extraordinarily unfair to me to make credit unions that did their best to comply with FDICIA, went through the time and expense of doing the mailers, to have to spend our member's money to do it again. Requiring existing members to acknowledge again, the fact that we are privately insured before accepting deposits, would wreak havoc. What happens to existing members who have written checks to make mortgage payments or other bills and have their deposits returned and their checks bounced because we haven't as yet received back their acknowledgement? Who pays the late fees and fines? This credit union received in member deposits electronically 1,154,544 ACH deposits, 343,535 payroll deduction deposits and 102,642 ATM deposits totaling \$904,565,717 during 2004, most of these deposits were withdrawn through check clearings and ACH payments to pay their bills.

Credit Union 1 has completed 13 mergers with federally insured credit unions since 1994. With each merger we complied with extremely onerous requirements from NCUA that disclosed on the notice, ballot, and any correspondence with the membership of the

fact of leaving the federal insurance system for private deposit insurance and all the “terrible” consequences of such a move. Of all NCUA’s requirements, the most difficult requirement to complete is the requirement that at least 20% of the members vote. Unfortunately it is very difficult to get that many members to vote either in person, by proxy or ballot. In the proposed rules you have indicated that all “new” members by the fact that they have now merged with the privately insured institution must now acknowledge the private deposit insurance before we can accept their deposits. This is an impossible requirement and will cause terrible hardship to the new members when we have to reject their electronic deposits and cause a chain reaction of calamities to their finances of bounced checks and embarrassment to the “new” members.

Signage Disclosures

At present Credit Union 1 owns 50 ATMs. The majority of these machines are located in public places away from our branch offices. Credit Union 1 belongs to a number of National ATM networks such as Star, NYCE, Plus and the COOP network. Customers of these networks can make deposits into our ATMs as our members can deposit into theirs. Requiring disclosures concerning private deposit insurance on our machines will only confuse customers of federally insured institutions as to whether or not their deposit will be Federally insured. Over 87% of the ATM deposits made into Credit Union 1 by our members are made at non Credit Union 1 owned ATMs. Requiring disclosures on privately insured institution owned ATMs would not only be confusing to federally insured depositors, but would not be justified in that it would only apply to a small percentage of the total deposits made by privately insured members.

Deposit Slips/Receipt Disclosures

Requiring a notice on all deposit receipts that “This institution is not federally insured...” would be impossible to achieve. As one example about 45% of our members do not have their checks or deposit slips printed by our vendor, choosing to have their checks and deposit slips printed by a discount or online vendor. It would not be possible to monitor compliance. At present the majority of our deposits are made through electronic means such as ACH, ATMs, payroll deduction etc., receipts are not generated for these deposits other than through their statements of account upon which the disclosure that we are privately insured is displayed.

Advertising Disclosures

Obviously it is impossible to provide disclosure on all advertisements and I would hope that the FTC would recognize this and exempt advertising on certain medium such as:

1. Giveaways such as pocket calendars, pens and pencils, bottle openers etc.
2. Stationary, envelopes and supplies
3. Statements of condition
4. Advertisements that do not relate to member deposit accounts for example loans and insurance products such as credit life or disability insurance
5. Building and parking signage etc.

If when members join the credit union they acknowledge that they understand that the institution is privately insured, it’s included on all statements of account, certificate of accounts, in the lobbies and on the WEB pages it certainly seems to me that a member would have to be extremely dim witted to not know that the institution is not federally

insured. When you compare the disclosures that members receive from privately insured credit unions to the incomprehensible disclosures and offerings on stock funds, mutual funds and other non-federally insured deposits and investments it seems ridiculous what we have to do in comparison to disclose that the Federal government does not stand behind the institution.

I appreciate your taking the time to read my comments and hope that you see the reasonableness of what we as privately insured credit unions are asking.

Thank you for your consideration.

Respectfully submitted,

Paul Simons, President
Credit Union 1