



Associated School Employees Credit Union

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June 12, 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:

The Associated School Employees Credit Union is a State Chartered, Privately Insured Credit Union located in the Youngstown Area of Northeast Ohio. We have approximately 9,000 members and assets of close to \$60 million. The credit union was chartered in 1959 to serve the financial needs of school employees.

As indicated, our credit union is privately insured and has been since well before June 19, 1994. The fact that we are privately insured is a direct result of the credit union making a decision that it felt best served its needs. It is not the result of our credit union being a second class credit union that would not be able to obtain Federal Share Insurance. In fact the credit union has a capital ratio of close to 15% and operates in a sound manner that is evidenced in both its examinations and audits.

We have received notice that the Federal Trade Commission (FTC) has proposed several rules that could have a negative impact on the credit union and to a degree impact the very safety and soundness of the deposits that the rules are trying to protect.

Section 320.5

Perhaps the most onerous of these rules is the one described in Section 320.5 that states in part:

"... depository institutions lacking federal deposit insurance are prohibited from receiving any deposit for the account of a new or existing depositor unless the depositor has signed a written

acknowledgement indicating that the institution is not federally insured..."

In 1994 the credit union complied with the requirement to send three-mailer notices to all credit union members. The credit union paid a significant amount in printing, postage and handling (employee time) in complying with the notice requirement. As a point of interest, to our knowledge not one single member chose to close an account as a result of the notices being sent. Unfortunately the FTC provided no guidelines as to how long the credit union needed to retain proof of compliance. After over ten years many of these records have been disposed. In addition to the mailed notices the credit union amended and reprinted the signature cards used to open new accounts.

Over the years we have encouraged the use of electronic and automated forms of transactions, including deposits. As a side note, in the aftermath of 9/11 it was determined that there are national security benefits to electronic transactions as is evident by the implementing of Check 21. Many of our members deposit into accounts by payroll deduction, ACH, Internet Banking and ATMs. If the credit union were to refuse these deposits members could suffer negative consequences since many members have also established automated electronic withdrawals from their accounts. Return or rejected deposits would create insufficient funds to clear these transactions. This would result in the return of House Payments, Utility Payments and other Types of Payments. This could also result in return fees charged to consumers.

Section 320.4 (b)

This rule states in part that:

"Depository institutions lacking federal deposit insurance must include conspicuously a notice disclosing that the institution is not federally insured:

(b) In all advertisements, including, but not limited to, advertising in print, electronic, webpage, or broadcast media"

This rule in the proposed form does not offer enough guidance. Is it the intent of the rule to include disclosures on items such as pens, golf tees, calendars, baseball caps? How about business cards, phone directory listings white or yellow page? If notice is given at the time an account is opened and reinforced with a notice on every statement of account, when is enough, enough?

Section 320.3

This rule states in part that:

"Depository institutions lacking federal deposit insurance must include in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice disclosing conspicuously that the institution is not federally insured, and if the institution fails, the federal government does not guarantee that depositors will get back their money"

We understand that the FDIC Improvement Act of 1991 (FDICIA) requires we disclose the absence of federal insurance and the fact that the federal government does not guarantee that depositors will get their money back if we fail, on all periodic statements

of account, signature cards, passbooks and certificates of deposit. Since the law's passage, we have attempted to comply with this provision, and we believe we have the ability to control such compliance. However, if the FTC's interpretation of FDICIA concludes we must also place this disclosure on all deposit slips, tickets or receipts, we are convinced that 100% compliance would be impossible and the cost of compliance to the consumer/member prohibitive.

Credit union members usually order deposit slips in conjunction with ordering checks. Numerous companies provide such printing services for a fee. While the credit union offers specific sources of supply for checks and deposit slips, many of our members buy these services on-line or from other unaffiliated vendors. Also, other than color choices in checks, most vendors don't offer options for deposit slips. To request custom-ordered deposit slips from any vendor – assuming such service is even available – would be more costly to the consumer. Furthermore, if the consumer fails to secure such deposit slips, it would create an undue regulatory burden on the credit union to police this disclosure. Non-compliance would be pervasive.

We suggest that such disclosures would be redundant, cost-prohibitive and unnecessary given the other forms of consumer disclosures required under the statute. Also, we cite the fact that the NCUA specifically exempts deposit slips, tickets or receipts from containing the required disclosure regarding the presence of federal share insurance.

Alternatively, we propose that privately insured credit unions be required to include such disclosure only on deposit slips available to members within the lobbies of main offices and branches of privately insured credit unions, and whose printing is controlled by the credit union. Shared branches and credit union centers should be exempt from this requirement so as to minimize confusion among credit union members of federally insured credit unions using such shared or common facilities owned and/or leased by privately insured credit unions.

We would like to thank you for allowing us to voice our opinions on the proposed rules.

Respectfully,

Michael J. Kurish, CEO
Associated School Employees Credit Union