



October 28, 2004

Donald S. Clark
Secretary of the Commission
Federal Trade Commission
Office of the Secretary
Room H-159 (Annex R)
600 Pennsylvania Avenue N.W.
Washington, DC 20580

RE: FACTA Prescreen Rule, Project No. R411010

Dear Secretary Clark:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions, I am responding to the Federal Trade Commission's (FTC) request for comment on the proposed rule that establishes an "improved" notice to consumers regarding their right to opt-out of prescreened solicitations for credit and insurance.

The FTC's proposal amends chapter I, title 16 of the Code of Federal Regulations to insert a new part, 16 C.F.R. § 642. As required by the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), the proposed regulation: 1) establishes certain baseline requirements for language and syntax that effectively convey the intended message to the reader, and 2) establishes guidelines for presentation and format that call attention to the notice and enhance its readability.

Also, the proposed rule defines "simple and easy to understand" as meaning language that is comprehensible to ordinary consumers. Factors to be considered in determining whether a statement is simple and easy to understand are provided in the proposed rule and include the use of definitive, concrete, everyday words, and the avoidance of legal and technical business terminology. Further, the proposed rule indicates the content and form of the short notice, and emphasizes that the short notice must: 1) tell a consumer of his right to opt-out of receiving prescreened solicitations; 2) list the toll-free number that the consumer should call to opt-out; and 3) appear on the first promotional piece of literature. Among other things, the long notice cannot detract from the short notice.

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Overall, NAFCU supports the FTC's proposed notice provisions, including the layered format of the short and the long notice. NAFCU believes that consumer disclosures should be obvious, clear, and easily understandable and that the model notice has achieved those goals.

In regards to the FTC's specific request for comments as to whether the "principal promotional document" should be a defined term, NAFCU supports defining the provision. In order to ensure compliance with the rule, federal credit unions need to understand key terms in the rule.

NAFCU also supports the ability of an institution to place the short and the long notices in different documents. This provision would give institutions the most flexibility in designing their promotional material, while ensuring that the consumer is provided with all relevant opt-out information. Requiring the notices to be on the same page, or mandating a font size could create a space concern. There are a number of ways that an organization can structure a promotional document to call attention to information, including changing the font type or color, and bolding or italicizing language.

Additionally, NAFCU would like to emphasize the importance of informing consumers that by calling the toll-free number and opting-out of prescreen solicitations, they are opting-out of all prescreen solicitations, not just solicitations from one particular creditor or insurer. While the model short notice proposed by the FTC makes this distinction, specific language is not mandated by the rule. Thus, NAFCU supports an institution's ability to include additional information in the long notice if it sees fit.

Finally, NAFCU supports making the effective date of the rule 120 days after the final rule is issued. Many of our smaller institutions will likely need more than 60 days to comply with the new provisions.

NAFCU would like to thank you for this opportunity to share its views on this proposed rule. Should you have any questions or require additional information please call me or Carrie Hunt, NAFCU's Associate Director of Regulatory Affairs, at (703) 522-4770 or (800) 336-4644 ext. 234.

Sincerely,



Fred R. Becker, Jr.
President/CEO

FRB/crh