

October 28, 2004

Federal Trade Commission
Office of the Secretary
Room H-159 (Annex R)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: FACTA Prescreen Rule, Project No. R411010

Dear FTC,

The Michigan Credit Union League (MCUL) appreciates the opportunity to provide comments to the Federal Trade Commission's (FTC) proposed rule on opt-out disclosures relating to prescreened offers for credit or insurance. The MCUL is a trade association representing over 90% of state and federally chartered credit unions in the state of Michigan. This comment letter was drafted in consultation with the MCUL Government Affairs Committee, which is comprised of Michigan credit union staff and officials, and input from CUNA.

The MCUL supports the FTC's implementation of the FACT Act requirement to allow a consumer the ability to opt-out of prescreened offers for credit or insurance. The MCUL believes that there are some areas in this proposal that are more burdensome than necessary to comply with the intent behind this FACT Act provision. We believe that there should be certain changes to the proposal and additional clarification to the language to make this proposal beneficial to both consumers and businesses.

Summary of Comments

- MCUL does not believe it is necessary to have both a short and long notice for opting-out of receiving prescreened offers. Our preference is simply to provide a long notice.
- MCUL believes that some of the font size requirements for the short notice are too strict and require amending, or additional clarification to be beneficial.
- MCUL believes that the requirement to locate the opt-out notice on the first page of a document is more confusing than placing it with the offer of credit, and there should be additional clarification with regards to placing the opt-out notice on the first "screen" of an electronic offer of credit.
- MCUL recommends delaying the mandatory effective date to at least six months after the rule is issued in final form to allow credit unions to comply to with the rule.

Discussion

Requiring Both Short and Long Opt-out Notices Unnecessary. MCUL does not believe that it is necessary to require both long and short opt-out notices for the consumer. Based on the information presented in the proposal, there is not an extensive amount of additional information contained in the long notice that would necessitate the creation of two separate notices. We propose that only one "long" opt-out notice be provided to the consumer that clearly lays out the information in the short notice first and then provides the additional disclosures and information contained in the proposed

long notice. We believe that this will simplify the information presented to consumers and create less paperwork for credit unions.

Font Size Requirement. MCUL believes that the requirement to use a 12-point font in the short form is an unnecessary requirement. There are other options that credit unions can use to highlight important information such as the use of bolding or italics. They can also use a variety of color to emphasize points. There are other important disclosure requirements from other federal agencies that do not require the use of 12-point font, such as credit card solicitations. We instead recommend that limitations be placed on the type of font, such as nothing smaller than 8-point font, as is the case for the long notice, as this would fail to qualify as “conspicuous” under most financial definitions. Flexibility with regard to font size should also apply to any electronic solicitations. There is some ambiguity surrounding the proposed language that the type size must be 12-point font. Does this mean that this is the required font size as delivered by the financial institution, or as it appears on the consumer’s screen? Font sizes often appear differently from one computer to another. We believe there should be clarification as to how the credit union must transmit the information as opposed to how it is received.

Location of the Opt-Out Notice. If the FTC requires a short notice, the proposal states that the notice be on the first page of the “principal promotional document.” The proposed rule states that if it is a prescreened mailer that contains several documents, including a cover letter describing the offer, an application form, and in some instances additional promotional materials, the Commission generally would consider the *cover letter* to be the principal promotional document. We do not believe that this location would be helpful to consumers in determining the significance of this document. Instead, MCUL believes that the opt-out would be better understood if it is placed with the application, or offer of credit. This location would help the consumer understand the implication of the opt-out notice, as opposed to placement with a cover letter, which may not describe the offer.

In the case of electronic solicitations, if FTC decides to require the opt-out notice in the “principal promotional document,” the proposed rule requires that the short notice be located on the first “screen” of the solicitation. MCUL supports CUNA’s view that this statement should be clarified to require that it be on the first “page” of the electronic solicitation. Based on the computer setup, the first screen may only contain a fraction of the first page and will likely differ from one computer to the other. The lender has no control over what each individual computer will display at any time.

Mandatory Compliance Date. MCUL recommends that the FTC delay their effective date (which is scheduled for sixty days after the rule is issued in final form) to be six months from the time the rule is issued in final form. Many small credit unions, because of limited resources, will need the additional time to comply and six weeks will leave them inadequately prepared.

We thank you for the opportunity to comment.

Sincerely,



Matthew Beard
Regulatory Specialist
Michigan Credit Union League

cc: Credit Union National Association, Inc.