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June 10, 2005

Federal Trade Commission
Office of the Chairman
Room H-159 (Annex A)
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: Proposed rule for FDICIA Disclosures
Matter No. R411014

Madam Chairman:

Our credit union appreciates the opportunity to respond to the Federal Trade Commission's (FTC) proposed regulations on disclosures for non-federally insured depository institutions.

North Shore Gas Credit Union has \$12,912,430.00 in total assets and serves as the credit union for North Shore Gas Company employees and family members. Our credit union has been privately insured prior to June 19, 1994. In 1994 we 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. The notices prominently stated that our credit union did not have federal share insurance and that if we failed, the federal government would not guarantee depositors would get back their money. Further, the notices requested members return signed acknowledgements in recognition of the above disclosure.

We strongly urge that the FTC not require privately insured credit unions to mail any further disclosures to members.

During the second half of 1994 our credit union mailed 4,728 notices at a cost of several thousand dollars. Since that time, we have made every effort to comply with the acknowledgement of disclosure requirement of FDICIA with respect to new members joining our credit union. Every new member that has joined our credit union since June 19, 1994 has signed a conspicuous disclosure that states our credit union is not federally insured, and if the credit union fails, the federal government does not guarantee that depositors will get back their money. In addition, this disclosure continuously appears on periodic statements and on other documents, as required, as a means of reinforcing that we do not have federal deposit insurance. Consequently, members are already inundated with disclosures about our lack of federal deposit insurance.

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In addition, members receive additional reminders that state we do not provide federal deposit insurance, in the form of signs in our lobby and on other documents as required by FDICIA. Over the last 14 years, privately insured credit unions have devoted considerable effort and expense to ensure compliance with required disclosures related to private deposit insurance. The redundancy of additional mailings would only confuse the very people (members) FDICIA was designed to protect. We believe the foregoing information demonstrates why we feel that the time period for all forms of compliance with acknowledgement provisions should commence with the future effective date of any rule promulgated by the FTC.

320.3 Disclosures in periodic statements and account records.

This section of the proposed rule requires that privately insured institutions include a disclosure “in all account records, periodic statements of account, on each signature card, each passbook, and certificate of deposit or similar document evidencing a deposit.” It has been suggested the term “or similar instrument evidencing a deposit” could be presumed to include deposit slips. We believe such an assumption is erroneous. FDIA’s description of the subject documents as “account records” indicates the intent of Congress that disclosure is required on documents evidencing ownership and account balances, not documents submitted with single deposits.

It is our belief the statement “or similar instrument evidencing a deposit,” was intended to cover the possible introduction of new forms of account records after the 1991 enactment of FDICIA. There is no question that Congress was aware of the almost universal use of deposit slips at depository institutions at the time FDICIA was enacted. Therefore, deposit slips would have been included in the list of documents if Congress had meant the disclosure requirements to apply to them.

This section states that “a notice disclosing conspicuously that the institution is not federally insured, and that if the institution fails, the federal government does not guarantee that depositors will get back their money.” We suggest FTC provide a definition for the term “conspicuous” that mirrors that of NCUA i.e. “the disclosure must be in a size and print that is clearly legible.”

320.4 Disclosures in advertising and on the premises.

FDIA requires a privately insured depository institution must include a conspicuous notice stating the institution is not federally insured at each place where deposits are normally received. This section of the proposed rule specifies ATM’s owned by the depository institution and locations “servicing more than one credit union or institution.”

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We request that the FTC revise 320.4(a) to delete credit union owned ATM's from the list of locations requiring disclosure. Our request is based on the fact that credit unions participate in networks that provide ATM availability to depositors of many financial institutions. A disclosure that states the credit union is not federally insured on ATM's that are a part of a network will confuse consumers that are doing foreign transactions at network ATM's.

As previously stated, in the process of joining privately insured credit unions consumers are required to sign an acknowledgement that the credit union does not have federal deposit insurance at the time they become members. Consequently, members are well aware their credit union does not provide federal deposit insurance prior to accessing an ATM to do a transaction on their account at the credit union.

NCUA regulations require federally insured credit unions to display a sign indicating members' accounts are federally insured at "each place of business maintained by it." However, this regulation specifically excludes ATM's and point of sale terminals from the definition of places required to display NCUA's official insurance sign. It is important that privately insured credit unions have parity with the NCUA regulation on this point.

320.4 pertaining to shared branching

The issue of disclosure relating to private deposit insurance at shared branching locations should be handled in the same manner as disclosure for federal insurance as described in NCUA rule 740.4 (c), which is that a listing of all federally insured credit unions must be affixed near the federal insurance disclosure sign listing all credit unions participating in the shared branching network that are federally insured. Credit unions that participate in shared branching operations should be required to post the "no federal deposit insurance" disclosure near a private insurance disclosure sign at the shared branch or service center, in the same manner as NCUA insured credit unions.

320.4 Disclosures in Advertising

In the supplementary information accompanying the proposed rule FTC appears to intimate it lacks statutory authority to provide exemptions for many types of advertising from disclosures required of privately insured credit unions. FTC states that NCUA and FDIC have statutory authority to provide such exemptions that are lacking from FDICIA. However, FTC does have the authority to define what constitutes "advertising." We therefore request that FTC add a definition of "advertising" to proposed 320.2. In doing so, we suggest the definition should exempt Logos, clothing imprinted with the credit union's name, and other items or listings if the credit union information is limited to the credit unions' name, address, Web site address, e-mail address, and phone number.

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320.5 Disclosure acknowledgement.

Our credit union followed the procedures set forth in 12 U.S.C.1831t(b)(C) by conducting three mailings to our members notifying them that we are not federally insured and if we fail the federal government does not guarantee that you will get your money back. The cost of these mailings in terms of printing, proof reading, postage, staff training, answering questions from members and administrative costs was several thousands of dollars. The cost of doing a series of mailings like we did in 1994 would accelerate as our membership has increased appreciably. As stated previously, further mailings of this type would confuse members since all who have joined subsequent to the mailings in 1994 have signed a written acknowledgement indicating that the institution is not federally insured and, if the institution fails, the federal government does not guarantee that the depositor will get back the depositor's money.

320.6 Exception for certain depository institutions

We understand this section deals with corporate credit unions. Therefore, we have no recommendations or comments related to it. If we have misinterpreted the intent of this section, please let us know.

We appreciate the opportunity to provide our comments on FTC's proposed disclosures for privately insured depository institutions. If we can help clarify any of the points we have made in this comment letter, please don't hesitate to contact me.

Sincerely,

Nancy J Schreiber
President/CEO

cc: NSGCU Board of Directors
Illinois Credit Union League

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