



Alabama Credit Union League

June 14, 2005

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

RE: Proposed Rule for FDICIA Disclosures, Matter No. R411014

On behalf of the Alabama Credit Union League, the 167 credit unions we represent, and the 1.5 million members they serve, we submit the following comments to the proposed rule concerning disclosures for non-federally insured credit unions.

Alabama is a state in which private insurance for credit unions has been approved by the state regulator, through authority granted to it by the Alabama State Legislature. We believe that it is extremely valuable for our credit unions to have the option of choosing an alternative to the National Credit Union Share Insurance Fund. The credit unions in Alabama that have chosen to avail themselves of the private insurance alternative, have done so after serious consideration and the determination that it was in the best interest of their members. Of course, it was also done with the full approval of their members, who were fully informed of all implications of private share insurance.

We agree with the FTC's premise that credit unions should sufficiently inform their members of the exact nature and circumstances under which their deposits are insured. However, the requirements proposed under this rule would not only create an unnecessary regulatory burden, but would hinder the ability of credit unions to provide even basic services to their members.

Section 320.5 of the proposed rule would place the greatest regulatory burden on credit unions, one that would be impossible for a credit union to meet, and would result in members of privately insured credit unions losing access to financial services. Requiring a signed written acknowledgment about the insured status of the credit union from each member before the credit union could accept deposits would create systemic problems for all privately insured credit unions and their members. Imagine someone finding out that their automatically deposited paycheck was returned to the employer because the member, although knowing that the credit union was privately insured, did not return a card acknowledging such. We cannot imagine a worse scenario than a member being told that their automatically deducted car or mortgage payment failed, due to insufficient funds, because they did not return an acknowledgment that their credit union was not insured by the federal government, a fact of which they were fully aware. Congress realized the inherent problems of requiring 100% compliance, and this is one of the reasons it introduced the three-mailer alternative as part of the amendments to FDICIA in 1994. This proposed rule change is contrary to the intent Congress expressed in 1994, and ignores the very real problems Congress sought to remedy with its amendment. While we agree that members should be fully informed as to the nature of the insurance of their deposits, we cannot stress strongly enough our disagreement with the proposal to require 100% acknowledgement from all members.

We are also very concerned about the problems created by Section 320.4 of the proposed rule. Requiring disclosure at shared branch locations will create significant confusion among members of both the privately

insured credit unions, and federally insured credit unions that are part of the shared branch network. Shared branching is a concept that is growing, and members of all credit unions involved truly appreciate the availability of additional locations at which they may transact business. Under the proposed rule, the FTC is governing the activity, and even the perception, of all credit unions involved in a shared branch. While ten credit unions involved in a shared branch may be federally insured, and only one might be privately insured, the rule still calls for disclosure that the institution is not federally insured. This will create confusion on the part of members of other credit unions as to the status of their deposits. NCUA Rule 740.4(c) requires that, in such a shared branch, a listing of all of the federally insured credit unions must be posted near the federal insurance disclosure sign, naming all of the credit unions participating in the shared branch that are federally insured. We would encourage the FTC to consider this rule to sufficiently address the issue.

Finally, the advertising requirements of Section 320.4(b) of the proposed rule are so broad as to be unworkable in an operational environment. The term “*In all advertisement, including, but not limited to . . .*” opens the door to enforcement against almost anything the credit union produces with its name attached. While disclosure on a webpage, or a one minute advertisement for a promotion seeking new accounts may be appropriate places to require disclosures, the proposed rule goes well beyond that. Under the language of the proposed rule, would a promotional item, such as a pen, a hat, or a calendar, require the disclosure? Would a credit union need to print the disclosure in a listing in the Yellow Pages? It would seem so, yet this is completely impractical. Also, when a new member opens an account, they will have signed an acknowledgment of disclosure, and will not need to see it on everything sent to them by the credit union. If a credit union sends a postcard to all members announcing a promotion for a car loan, should half of the post card need to be filled with the disclosure? Again this is something of which the member is already aware. The burden of the advertising rule far outweighs any possible benefit of having a more informed membership. We would urge the FTC to reconsider the broad wording of this proposal, and develop exemptions that will further the idea of informing potential members about the nature of the credit union’s insurance, without unnecessarily burdening the credit union’s ability to market itself, or even communicate with its existing members.

Thank you for the opportunity to comment on this proposed rule. It is our hope that the FTC will re-examine this issue, and develop disclosure and acknowledgment requirements that are both useful for members and the public and manageable for the credit unions whose member owners have chosen private insurance.

Sincerely,

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