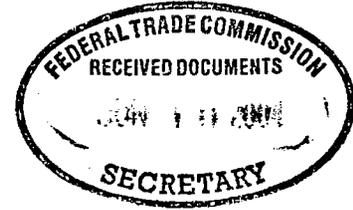




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**ORIGINAL**

June 8, 2004



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

**RE: THE FACT ACT DISPOSAL RULE, R-411007**

Dear Sir/Madam:

The Pennsylvania Credit Union Association is a statewide trade association that represents more than 90% of the 700 credit unions located in the Commonwealth of Pennsylvania. On behalf of our member credit unions, our Regulatory Review Committee (the Committee) recently considered your proposed Disposal Rule under the Fair and Accurate Credit Transaction Act (FACT Act). The committee is comprised of credit union CEOs who review proposals like this one and offer their comments. The following reflects the comments of the committee and the Association.

**New Terminology**

The Disposal Rule includes two new terms, “consumer information” and “disposal.”

We support the broad definition of “consumer information” and agree that information derived from consumer reports that does not identify any particular consumer should not be covered under this Rule. We further agree with the Commission that limiting “consumer information” to information that identifies a particular consumer is consistent with current law under section 216 of the Fair Credit Report Act. We believe the definition of “consumer information” is clear and understandable and does not require further clarification.

The definition of “disposal” includes the discarding or abandonment of consumer information, as well as the sale, donation, or transfer of any medium, including computer equipment, upon which consumer information is stored. We find this definition to be unambiguous and agree that the sale, donation, or transfer of consumer information should not be considered “disposal” under the Rule.

**No Undue Compliance Burden**

The FACT Act requires the proper disposal of consumer information derived from consumer reports. Under the National Credit Union Administration’s Rules and Regulations Part 748, all federally-insured credit unions must have a written security program that ensures the security and confidentiality of member records, protect against anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member. In addition, Appendix A of Part 748 requires the federally insured credit union’s service providers to implement appropriate measures by contract. Therefore, since all

Pennsylvania credit unions are federally insured, we believe the Disposal Rule requirements would not impose an undue compliance burden on our credit unions since they already have developed and implemented policies and procedures that would meet, and/or exceed, these requirements.

### **Third Parties**

In reviewing the language regarding the contracting of a third party for disposal of consumer information, we suggest establishing a clearer understanding of liability. The provision only suggests that the third party has a responsibility for the integrity of the consumer information during the disposal process by requiring them to establish monitoring policies and procedures consistent with the Rule. It appears that the parameters of responsibility and liability for the integrity of consumer information when a third party is contracted to dispose of this type of information is somewhat ambiguous and should be better defined.

### **In Summary**

We support the Commission's efforts regarding the prevention of identity theft and the proposed Disposal Rules. We believe the proposed Disposal Rule provides reasonable protection against identity theft and/or unintended disclosure of consumer information. The rule provides sufficient latitude regarding what type of information should be disposed of in a manner consistent with the rule and how to destroy and dispose of it.

We thank you for this opportunity to be heard on this important issue and we hope our comments are helpful.

Sincerely,

Pennsylvania Credit Union Association



Vicki Miller, CUCE  
Compliance & Operations Officer

VM:vm

cc: Association Board  
Regulatory Review Committee  
J. McCormack  
R. Wargo  
J. Kilduff  
M. Dunn, CUNA