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January 9, 2004

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Re: Docket No. 4-1171

Federal Trade Commission
Office of the Secretary
Room 159-H
600 Pennsylvania Avenue, NW
Washington, DC 20580
Re: Interim Final Rules for the FACT Act
Project No. P044804

Re: Effective Dates for the Fair and Accurate Credit
Transactions (FACT) Act of 2003

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)¹ appreciates the opportunity to comment on the effective dates for the FACT Act proposed jointly by the Federal Reserve and the Federal Trade Commission (FTC). Under authority delegated to the agencies by Congress, the interim final rule and the proposal would establish three effective dates for provisions of the FACT Act.

The interim final rule would make December 31, 2003 the effective date for the preemption provisions of the FACT Act to ensure no gap between the sunset of existing Fair Credit Reporting Act (FCRA) provisions and the FACT Act's extension of those provisions. That date would also apply to provisions that authorize agency action when no effective date is otherwise established.

¹ ICBA is the nation's leading voice for community banks and the only national trade association dedicated exclusively to protecting the interests of the community banking industry. ICBA has nearly 4,600 members with branches in more than 17,000 locations nationwide. Our members hold more than \$526 billion in insured deposits, \$728 billion in assets and more than \$405 billion in loans for consumers, small businesses, and farms. They employ more than 231,000 people in the communities they serve.

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The proposed rule would implement two other effective dates. The first of these, March 31, 2004, would apply to statutory provisions that the agencies do not believe require "significant changes to business procedures." The second, December 1, 2004, would apply to provisions that require changes to business procedure or regulatory action. As rules are issued, banks will have to adapt procedures with respect to how they handle credit report information.

The ICBA does not object to December 31, 2003 and March 31, 2004 as effective dates. However, we have serious concerns about the December 1, 2004 effective date. Many of the provisions that would become effective December 1, 2004 under the proposal will require new regulations or, at a minimum, further guidance from federal regulators. However, with less than 12 months until this effective date, no proposed rules or guidance have been issued. It will take time to issue proposed rules, analyze comments and finalize any regulations, especially given the likely public interest and comment on the proposals. Once final rules are out, banks will have to create new procedures, upgrade and change systems and train staff on the compliance mandates required. Changes to existing procedures may be extensive. Sufficient transition time will be needed for this process. Therefore, ICBA sees a likely need to extend or revise the December 1 effective date for many of the affected provisions.

As regulatory proposals are issued under the FACT Act, the agencies should include a request for comment on the effective date and whether it should be extended beyond December 1, 2004 for that particular provision. The agencies also need to ensure that extensions are provided in the event final regulations are delayed or have not been issued by the time the effective date approaches. Instead of one hard deadline of December 1, the ICBA recommends the agencies consider a staggered schedule of effective dates to ensure that financial institutions have sufficient time to adapt to the new requirements.

If you have any questions or need additional information, please contact Robert Rowe, ICBA's regulatory counsel, at 202-659-8111 or robert.rowe@icba.org.

Thank you for the opportunity to comment.

Sincerely,



C. R. Cloutier
Chairman

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