

June 9, 2004

Federal Trade Commission  
Office of the Secretary  
Post Office Box 1030  
Merrifield, VA 22116-1030

Re: Identity Theft Rule, Matter No. R411011

Dear Sir or Madam:

Navy Federal Credit Union provides the following comments in response to the Federal Trade Commission's (FTC) proposal to establish definitions for the terms "identity theft," "identity theft report," "active duty alert," and "appropriate proof of identity" for purposes of implementing the Fair Credit Reporting Act (FCRA) as amended by the Fair and Accurate Credit Transactions (FACT) Act.

We do not oppose the FTC proposal to align the proposed definition of "identifying information" with that of "means of identification" as codified in 18 USC 1028. However, we urge FTC to substitute the word "person" for "individual" as follows:

16 CFR 603.2 (b) *The term identifying information means any name or number that may be used in conjunction with any other information to identify a specific ~~individual~~ person, including....*

Use of the word "person" follows the pattern set by Congress in its definition of identity theft and affords additional protections for individuals having credit relationships with their businesses or other "persons" as defined by the FCRA.

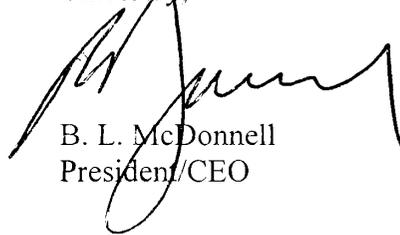
Navy Federal does not object to the FTC's proposed definition of "identity theft." We believe that the definition, "*a fraud committed or attempted using the identifying information of another person without lawful authority,*" is sufficiently broad to identify possible methods of identity theft. We agree that "*or attempted*" is an appropriate addition to the statutory definition. It supports the reasoning that by including inquiries associated with unlawful attempts to open new accounts, consumers will then be allowed to remove the inquiries that were improperly made. We also agree that the term should include the requirement that the person's identifying information must be used "*without lawful authority.*" On certain occasions, family members of consumers who serve in the military may act on their behalf to assist those who have been deployed overseas or assigned to stations where they can not readily take care of their financial affairs. This is clearly different from those cases where a person is attempting to obtain a member's information for illegal purposes. We believe the proposal provides an appropriate definition that recognizes the distinctions between these situations.

Navy Federal believes that information furnishers and consumer reporting agencies have the expertise and experience necessary to gather the appropriate information to determine whether or not the crime of identity theft has been or is being committed. While it seems reasonable that levying criminal penalties will help to deter people from filing false reports (part of the proposed definition of "identity theft report"), we believe the single greatest weapon against identity theft will remain the relatively unfettered ability of information furnishers and consumer reporting agencies to ask the appropriate questions to resolve questions of fact. We believe that the definition of "appropriate proof of identity," as proposed, affords regulatory latitude to information furnishers and consumer reporting agencies as they conduct investigations.

Finally, the FACT Act requires a *minimum* 12-month duration for an active duty alert. It does not, however, prescribe a maximum time limit. While many tours of active duty may span 12 months, many do not. We believe that the agency should prescribe flexibility for those cases where a servicemember's deployment extends beyond the 12-month duration and broaden the definition of "active duty alert." We suggest that the rule be written to allow a servicemember to place an alert from 12 to 24 months or, in the alternative, allow the servicemember to place an alert for the expected term of his or her tour of duty.

Navy Federal appreciates the opportunity to comment on the Federal Trade Commission's proposal to establish definitions for the terms "identity theft," "identity theft report," "active duty alert," and "appropriate proof of identity" for purposes of implementing the Fair Credit Reporting Act as amended by the FACT Act.

Sincerely,



B. L. McDonnell  
President/CEO

BLM/pjm