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August 7, 2013

Federal Trade Commission
Office of the Secretary
Room H–113 (Annex B)
600 Pennsylvania Avenue NW.
Washington, DC 20580

Re: Telemarketing Sales Rule, 16 CFR Part 310, Project No. R411001

Dear Office of the Secretary:

This comment letter represents the views of the Credit Union National Association (CUNA) on the Federal Trade Commission's (FTC's) proposed rule to amend its Telemarketing Sales Rule. By way of background, CUNA is the nation's largest credit union trade organization, representing America's state and federal credit unions, which serve over 96 million members.

The proposed changes, among other things, would prohibit sellers and telemarketers when they are engaged in "telemarketing" activities on the phone, from accepting or requesting four types of "novel payment methods." These are: 1) remotely created checks (RCCs), 2) remotely created payment orders (RCPOs), 3) cash-to-cash money transfers, and 4) cash reload mechanisms. We are not aware that credit unions use these types of payment methods in telemarketing or engage in telemarketing practices that harm consumers.

CUNA appreciates FTC's ongoing efforts to limit the activities of unscrupulous telemarketers that defraud consumers.

However, while we understand the proposed rule does not target financial institutions, we have some concerns about potential effects on, and unintended consequences for, the broader payments system, as discussed below. We urge the FTC to coordinate closely with the Federal Reserve Board (Fed), CFPB, and other stakeholders to ensure legitimate payments, including emerging payment applications and financial institution collections activities, are not negatively impacted.

For example, the proposed rule may impact check-related rules, including the regulation of RCCs under the Fed's 2011 Regulation CC proposed rule, which has not been finalized, as well as other related rules such as

Federal Reserve Operating Circular 3. In addition, as the agency has noted, the regulatory framework for RCPOs is currently "complicated and unsettled." The FTC should work with other regulators to achieve regulatory consistency and minimize regulatory burdens for financial institutions.

Also, a complete ban on the four payment methods in telemarketing activities would likely shift some of these payments to other payment systems, and financial institutions and other entities will have to make appropriate risk management changes. We encourage the FTC to provide information to payment processors and others to comply with the rule, while permitting legitimate payments to continue.

Further, we are aware the FTC has taken enforcement actions against certain nonbank telemarketers, including those that use novel payment methods to defraud consumers. The agency should continue to focus on such telemarketers, including those with a history of fraudulent transactions.

In closing, as the FTC continues its efforts to limit the activities of fraudulent telemarketers, we urge the agency to limit the impact of its regulatory reach on legitimate payment activities that meet consumers' needs and support their daily activities. We also recommend the agency coordinate with other regulators to increase consumer awareness about fraud, and to further research fraudulent schemes and methods.

Thank you for the opportunity to comment on this proposal. If you have any questions concerning our letter, please feel free to contact CUNA SVP and Deputy General Counsel Mary Dunn or me at (202) 508-6733.

Sincerely,

Dennis Tsang
CUNA Assistant General Counsel