

Financial Education and Counseling Alliance

FECAlliance@gmail.com

Consumer Credit Counseling of Greater Atlanta, Inc. • Consumer Credit Counseling of Greater Dallas, Inc. • Money Management International, Inc. • Springboard Nonprofit Consumer Credit Management, Inc. • Take Charge America, Inc. • GreenPath, Inc.

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Via Electronic Submission

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex T)
600 Pennsylvania Avenue, NW
Washington, DC 20580

RE: Telemarketing Sales Rule – Debt Relief Amendments, R411001; 74 Federal Register §§ 41988 - 42024 (Aug. 19, 2009).

Dear Commissioners:

The Financial Education and Counseling Alliance (the “Alliance”) welcomes the opportunity to make comments on the Federal Trade Commission’s (the “FTC”) Notice of Proposed Rulemaking (the “NPRM”) to amend the Telemarketing Sales Rule (the “TSR”) to address the sale of debt relief services (“DRS”). Alliance members are leading nonprofit credit counseling agencies (“CCAs”) that are exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (the “Code”).

I. SUMMARY OF COMMENTS.

Our purpose in commenting on the NPRM is: (1) to confirm the Alliance's support of the FTC’s efforts to further protect consumers from unscrupulous DRS providers; and (2) to request additional clarity regarding the scope of the proposed TSR amendments. As providers of financial education and counseling to consumers struggling with debt, our member counseling agencies regularly work with consumers who have encountered DRS offered by a range of for-profit marketers. Often times, those consumers have been harmed by the for-profit provider's self-interest and resulting DRS pricing and/or failure to identify options better suited to the consumer. In many instances the costly consequences borne by the consumer, which are both financial and emotional, could have been avoided.

The Alliance is committed to strong protection for consumers in financial distress. Tax-exempt CCAs already operate under an extensive and complex web of federal and state laws that heavily and effectively regulate their interactions with consumers. However, the non-CCA segment of the DRS industry is not as uniformly regulated and this is the segment of the DRS industry that should be targeted by the proposed TSR amendments.

While we understand the FTC does not intend to apply the proposed TSR amendments to CCAs due to jurisdictional limitations, the Alliance has concerns about how the potential jurisdictional reach of the proposed NPRM could be interpreted, given its broad definition of “debt relief service.” Alliance members each operate in an environment where regulatory certainty is critical to making free and low-cost financial education and counseling services available to the public. Therefore, clarifying the exemption of CCAs from the scope of the proposed TSR avoids draining necessary resources and increasing the costs to CCAs without any corresponding benefit.

Accordingly, our written comments below focus on suggestions for clarifying to whom the FTC intends to apply the TSR.

II. BACKGROUND.

The Alliance is comprised of six of the leading nonprofit credit counseling agencies recognized as exempt from federal income taxation under Internal Revenue Code Section 501(c)(3).¹ Each agency provides financial educational and counseling services to the public. As CCAs, our members and their services are heavily and effectively regulated under federal and state law, as well as standards and guidelines established by industry trade associations and independent accrediting bodies devoted to consumer protection. This government regulatory and self-regulatory structure distinguishes us and other CCAs from many of the companies whom the FTC intends to regulate through this NPRM.

Increasingly, as the economic crisis has worsened, CCAs are the preferred, trusted source of information for consumers with respect to their personal economic situation and options. In many respects, CCAs have filled the public service gap when few, if any, other government and non-governmental organizations provide any type of education and personalized counseling for consumers in financial distress. Many individuals and organizations including state departments of labor, radio and television consumer reporter, clergy and accountants are referring consumers in financial distress to CCAs. The services CCAs provide include debt and budget counseling and education, U.S. Department of Housing and Urban Development (“HUD”)-approved housing counseling services, and Executive Office for United States Trustees (“EOUST”)-approved bankruptcy counseling and debtor education.

Members of the Alliance have a number of key characteristics in common. Each has a mission to provide education and counseling to consumers and each has limited resources to provide these services. Each is organized on a nonprofit basis² and is recognized as exempt from

¹ Member agencies are Consumer Credit Counseling Service of Greater Atlanta, Inc., Consumer Credit Counseling Service of Greater Dallas, Inc., GreenPath, Inc., Money Management International, Inc., Springboard Nonprofit Consumer Credit Management, Inc., and Take Charge America, Inc.

² As nonprofit organizations, CCAs are barred from distributing their net earnings to individuals who control the organizations. Similarly, they are barred from accumulating equity appreciation for private benefit. Nonprofit organizations have chosen to undertake programs to benefit members and the public rather than private individuals. Their earnings, therefore, must, by law, be dedicated to furthering the purposes for which they were organized.

taxation under the Code.³ Under the Code, no agency can refuse services based on a consumer's ability to pay or based on the ineligibility/unwillingness of a consumer to enroll in a debt management plan ("DMP"). And, perhaps most significant in this context, each is already heavily regulated by various broad and highly detailed federal and state regulatory schemes, depending upon the service provided (*e.g.*, the Code, federal bankruptcy law, federal housing law, state nonprofit corporation laws, state debt adjusting laws). Further, each of our members adheres to one or more sets of self-regulatory principles through affiliations with industry trade associations (such as the National Foundation for Credit Counseling and the Association of Independent Consumer Credit Counseling Agencies) and independent accrediting bodies (such as the Council on Accreditation). As a result, each of our member agencies operates in an environment where consumer protection and government oversight already play a significant role in defining operations and services.

Alliance member agencies provide budget and debt education and counseling and, depending on the agency, such services as bankruptcy counseling, bankruptcy debtor education, and various forms of HUD-approved housing counseling. Each agency also provides group educational workshops and undertakes community outreach activities including, for example, classes at public libraries, local community colleges, and senior living complexes. All of these services (and others that may be offered) are provided at no charge or very low charge to consumers, subject to various fee restrictions found in the Code and other laws applicable to the activity.

The ability of tax-exempt CCAs, particularly in this economy, to provide access to free and low-cost education and counseling services with minimal obstacles is critical to our member agencies' ability to help the greatest number of American consumers and households in financial distress.

III. ALLIANCE MEMBERS SUPPORT STRONG CONSUMER PROTECTION.

Alliance members strongly support the FTC's efforts to eliminate unfair and deceptive acts and practices from the DRS industry. The FTC has alleged, in a series of settlements, that many companies have charged fees for assistance that did not take place, while others have made false or misleading statements to consumers about their services, results, and prices. Consumers have been harmed by these practices. As tax-exempt CCAs, we are often left to try to right these wrongs.

Nonprofit organizations have no shareholders and pay no dividends – all earnings are “reinvested” in the organization in furtherance of its nonprofit purposes.

³ Tax-exempt status means that an organization is exempt from paying federal corporate income tax on income generated from activities that are substantially related to the purposes for which the entity was organized. Section 501(c)(3) of the Code describes “corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes... no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda...” 26 U.S.C. § 501(c)(3).

Experience with For-Profit Marketers of DRS

Alliance members support the overall concept of the proposed amendments to the TSR. We each have heard directly from affected consumers of tragic experiences stemming from for-profit marketers of DRS that engage in patterns of abusive and deceptive practices. From the perspective of CCAs, for-profit DRS companies can create serious impediments to achieving good results for the consumer whom they purport to represent. For-profit marketers of DRS often state claims in such a way as to make it difficult for consumers to understand what services can actually be performed. Further, their presentations create misperceptions about the results that can be obtained.

According to the experiences of Alliance member agencies and as acknowledged by the FTC in the NPRM, for-profit DRS marketers often will create false expectations and divert consumers from legitimate solutions specifically tailored to their unique situations – in exchange for high fees. As a result, consumers who are struggling with debt often end up being hurt or even more and do not receive the necessary educational counseling provided by tax-exempt CCAs.

In contrast, Alliance members (and other CCAs) provide consumers with one-on-one counseling, tailored to their individual needs and without predetermined outcomes. In the course of fulfilling their services to consumers, CCAs engage in community outreach, provide one-on-one counseling, inform consumers of their options for assistance, and explore additional alternatives, as appropriate. Tax-exempt CCAs also have different economic incentives than for-profit DRS marketers. Tax-exempt CCAs do not have the incentive to suggest to a consumer a potential course of action that is not appropriate for that consumer.

Regulation of Tax-Exempt Nonprofit Credit Counseling Agencies

As the FTC recognizes in the NPRM, tax-exempt CCAs are significantly regulated and restricted in how we may provide our services. Most significantly, all Alliance member agencies - as tax-exempt organizations under Code Section 501(c)(3) - provide a substantial amount of free education and counseling to the public and, among other requirements, may not refuse credit counseling services to a consumer due to the inability of the consumer to pay.

In August 2006, Congress added Code Section 501(q) to the Pension Protection Act of 2006 (the “Act”) which, in addition to the already-existing tax exemption requirements, established more stringent standards and requirements for CCAs to qualify for recognition of federal tax-exempt status under Code Section 501(c)(3). These rules are intended to ensure that no substantial part of the activities of a CCA is in furtherance of a non-exempt purpose and that the organization is providing substantial educational benefits to the public.⁴

⁴ Under the Act, “credit counseling services”, which are exempt activities under Section 1220(a) of the Act, means “(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit, (ii) the assisting of individuals and families with financial problems by providing them with counseling, or (iii) a combination of the activities described in clauses (i) and (ii).” The Act further notes that “debt management plan services” means “services related to the

Code Section 501(q), among other things, prohibits tax-exempt CCAs from: making or negotiating loans to or on behalf of a client; engaging in credit repair activities, if those activities are not incidental to the provision of credit counseling; charging a separate fee for credit repair activities; or refusing to provide credit counseling services due to a consumer's inability to pay or a consumer's ineligibility or unwillingness to agree to enroll in a DMP.⁵

In addition, Code Section 501(q) provides that tax-exempt credit counselors may only charge reasonable fees for services; must allow fee waivers if a consumer is unable to pay; and may not, unless allowed by state law, base fees on a percentage of a client's debt, debt management plan payments, or savings from enrolling in a DMP.⁶

Code Section 501(q) also limits the aggregate revenues that a tax-exempt CCA may receive from creditors of individuals enrolled in a DMP.⁷ Under Code Section 501(q), tax-exempt CCAs are prohibited from making or receiving referral fees and from soliciting voluntary contributions from a client.⁸

Further, under Code Section 501(q), a tax-exempt CCA's board of directors must represent the "broad interests of the public" and must include individuals such as public officials, community leaders, and persons with special knowledge in credit or financial education. The organization must ensure that (1) not more than 20 percent of the voting power on the board can be held by the organization's employees or by individuals who would benefit directly or indirectly from the organization's activities (other than through the receipt of reasonable director's fees or repayment of consumer debt to creditors), and (2) not more than 49 percent of the voting power can be held by board members who are organization employees or by individuals who would benefit directly or indirectly from the organization's activities (other than through the receipt of reasonable director's fees).⁹

repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans." The Act specifically notes in Section 1220(b) that "debt management plans" are treated as an unrelated trade or business unless carried on by a credit counseling organization that meets the requirements of Code Section 501(q).

⁵ 26 U.S.C. § 501(q).

⁶ *Id.*

⁷ 26 U.S.C. § 501(q)(2) (requiring that "[t]he aggregate revenues of the organization which are from payments of creditors of consumers of the organization and which are attributable to debt management plan services do not exceed the applicable percentage [that is being phased in and that will go down to 50%] of the total revenues of the organization.").

⁸ *See* 26 U.S.C. § 501(q)(1)(C).

⁹ 26 U.S.C. § 501(q)(1)(D).

Finally, it should be noted that unlike taxable corporations, tax-exempt entities are required to disclose a substantial amount of information about their activities to the public, including: their annual information returns (the Form 990); their application for recognition of tax exempt status (the Form 1023), including all related correspondence; and the letter recognizing the organization as exempt. The disclosure requirements subject tax-exempt CCAs to additional oversight and scrutiny by non-regulators such as the media, consumer advocacy organizations, and the general public. While these disclosures are significant, the type of information requested makes these disclosures truly meaningful.

The organizational and operational requirements under the Code for tax-exempt CCAs are co-extensive with other requirements that are specific to services provided by Alliance member agencies.¹⁰ As detailed in the NPRM by the FTC, the services and applicable requirements may include, but are not limited to, services such as –

- **DMPs** (the Code – and, often, state law – have various consumer protection requirements, including regulating if, when and the amount of fees that may be charged for a DMP, disclosures and detailed written contract requirements);
- **Bankruptcy Counseling and Debtor Education** (*e.g.*, disclosures, prohibitions, and if, when and how the amount of fees that may be charged are regulated by the Department of Justice’s U.S. Trustee Program),¹¹ comprised of:
 - Pre-Filing Bankruptcy Counseling;¹²
 - Pre-Discharge Bankruptcy Education,¹³ and

¹⁰ We highlight those provisions of the Code and other activity specific laws that appear to be more related to the description of tax-exempt activities and this rulemaking. Please refer to the NPRM for a more complete description of the requirements under applicable law for the services specified.

¹¹ 11 U.S.C. § 111. The nonprofit budget and credit counseling agencies and financial management instructional course section of the Bankruptcy Code states, “if a fee is charged for [counseling services / the instructional course], charge a reasonable fee, and provide services without regard to ability to pay the fee” (emphasis added). 11 U.S.C. § 111(c)(2)(B) and (d)(2)(B); *See, also*, the Interim Final Rule applicable to pre-bankruptcy counseling and pre-discharge debtor education states: “If a fee is charged for counseling services, charge a reasonable fee, and provide services without regard to ability to pay the fee; the agency’s criteria for providing services without a fee or a at a reduced rate must be provided to the United States Trustee.” 71 FR 38079 (July 5, 2006) (*available at* http://www.usdoj.gov/ust/eo/bapcpa/ccde/docs/Credit_Counseling_Interim_Rule.pdf). In addition, proposed Final Rules for bankruptcy counseling and debtor education each state, “A fee of \$50 or less for [credit counseling services / an instructional course] is presumed to be reasonable...” 73 Fed. Reg. 6070 (Feb. 1, 2008), 73 Fed. Reg. 67442 (Nov. 14, 2008).

¹² 11 U.S.C. § 109(h)(1).

¹³ 11 U.S.C. § 727(a)(11), 1328(g)(1), 1141(d)(3)(c).

- **Housing counseling** (as housing counseling agencies approved by HUD). Among many requirements, fees and disclosures are regulated by HUD.¹⁴

In addition, unlike for-profit DRS providers, the above-listed services also place tax-exempt CCAs under specific functional regulators for each activity, in addition to the Internal Revenue Service (“IRS”).

Further, as the FTC also recognizes in the NPRM, CCA activities are heavily regulated on the state level, where laws often include required licensure/registration, bonding, additional fee restrictions, written agreement requirements, and activity-specific disclosures.

In addition to government regulations, industry trade associations and independent accrediting bodies (to which all Alliance members belong and participate) have imposed registration and/or certification requirements on their members requiring, among other things, that CCAs maintain nonprofit and tax-exempt status, provide counseling and education services, utilize certified counselors, and provide counseling services to consumers regardless of the consumer’s ability to pay.¹⁵

IV. SCOPE OF THE PROPOSED TSR AMENDMENTS.

The Alliance supports the FTC’s efforts to protect consumers from the unfair and deceptive acts and practices of DRS marketers. However, the Alliance is concerned that the definition of “debt relief service” in the NPRM is so broad as to include many of the services that CCAs routinely provide to their clients, in accordance with a very strict regulatory and oversight regime (as detailed above and in the NPRM).

We therefore appreciate the FTC’s statement acknowledging the jurisdictional limitations of the FTC in enforcing the TSR as co-extensive with Section 5 of the Federal Trade Act (“FTC Act”). We were pleased to see that the FTC specifically stated in the NPRM that the scope of the proposed TSR was narrow and “legitimate nonprofit credit counseling agencies that conduct telemarketing campaigns on their own behalf will be not subject to the amended TSR.”¹⁶

We agree with the FTC that the regulation should not apply to *bona fide* nonprofits – especially CCAs. It would be contrary to the apparent intent of Congress, in enacting the FTC Act, for the DRS amendments to the TSR to cover CCAs. As the NPRM notes:

¹⁴ 24 C.F.R. Part 214 (Housing Counseling – Final Rule); *See also*, 12 U.S.C. § 1701(x); 42 U.S.C. § 3535(d).

¹⁵ NPRM at 41991 at n.50 citing NFCC Member Application (Attachments A-C), *available at* (www.nfcc.org/NFCC_MemberApplicationFINAL_REV071006.pdf); AICCCA Certification of Compliance, *available at* (www.aiccca.org/images/CertificateofCompliance.pdf)).

¹⁶ NPRM at 41998.

Specifically, the Act states that “no activity which is outside of the jurisdiction of [the FTC Act] shall be affected by this chapter.” *One example of such an activity, which merits mention here, is the exemption of nonprofit entities from the jurisdiction of the FTC Act and, by extension, the TSR.* This jurisdictional limitation is rooted in Sections 4 and 5 of the FTC Act which, by their terms, provide the FTC with jurisdiction only over persons, partnerships, or corporations organized to carry on business for their profit or that of their members.¹⁷

The fact that the FTC lacks jurisdiction to enforce Section 5 against *bona fide* nonprofit corporations has been long recognized.¹⁸

Moreover, even if the FTC was able to somehow establish jurisdiction, the proposed amendments to the TSR, if approved and applied to *bona fide* nonprofit CCAs, would result in another layer of regulation of CCAs that are already subject to significant oversight by the IRS, EOUST, HUD, state regulatory bodies, and professional and ethical standards for trade association members and those accredited by independent accrediting bodies. Further, it should be noted that some of the services provided, since they involve regulated third parties (creditors), are indirectly regulated by the U.S. Department of Treasury, the U.S. Department of Justice, regulators of financial institutions, debt collectors, mortgage servicers, and bankruptcy judges.

The Alliance agrees with the need to protect consumers from those that would abuse their nonprofit status and act beyond the scope of the jurisdictional exemption. But, as recognized in the NPRM, *bona fide* nonprofit CCAs clearly fall outside of the scope of the FTC’s amended TSR.

As noted above, CCAs are increasingly being asked, in conjunction with government and non-governmental organizations, to aid consumers with their financial counseling needs and other budget and debt activities. Moreover, because CCAs are not legally able to engage in many of the types of practices that the proposal seeks to address, we do not present the same risks as for-profit marketers of DRS and, thus, should not be subject to the TSR.

Accordingly, we request that the FTC ensure that the amendments to the TSR it promulgates is drafted so that it does not restrict the legitimate education and counseling services of CCAs or impede our ability to develop new services to assist consumers, such as the alternative repayment plans, that were referenced by the FTC in the NPRM. CCAs and others need bright lines or,

¹⁷ *Id.* (emphasis added). (citation omitted).

¹⁸ See, e.g., *California Dental Ass’n v. FTC*, 526 U.S. 756, 766 (1999); *Community Blood Bank v. FTC*, 405 F.2d 1011, 1012 (8th Cir. 1969). Moreover, the FTC itself has recognized its lack of jurisdiction over nonprofit entities under the FTC Act. See e.g., Telemarketing Sales Rule, Notice of Proposed Rulemaking, 67 Fed. Reg. 4492, 4497 (Jan. 30, 2002) (“One type of ‘activity which is outside the jurisdiction’ of the FTC Act, as interpreted by the FTC and federal court decisions, is that of non-profit entities.”); Telemarketing Sales Rule, Final Rule, 60 Fed. Reg. 43842, 43843 (Aug. 23, 1995) (“Similarly, section 4 of the FTC Act exempts corporations that are not acting for their profit or that of their members.”).

alternatively, explicit safe harbors in order to understand the FTC's position on the jurisdictional limitations in enforcing the TSR against nonprofits.

We believe that the FTC can make some adjustments to the TSR without sacrificing the efficacy of the overall regulatory regime and the FTC's ability to stifle the kinds of illegitimate, unfair and deceptive activities that gave rise to the need for the initial proposal.

To this end, we suggest that the FTC:

- At a minimum, adopt clarifying language in the final TSR's "Statement of Basis and Purpose" that *bona fide* nonprofits are exempt from the scope of the TSR and, in particular, that the requirements and prohibitions pertaining to "debt relief services" are not intended to apply to CCAs acting in their traditional capacities (*e.g.*, credit counseling services, debt management plan services (repayment plans for all or a portion of debt owed), HUD-approved housing counseling services, EOUST-approved bankruptcy counseling and debtor education courses) or the like.¹⁹ We believe this is especially important in light of the outreach, education and counseling we provide – some of which is over the telephone.
- Unequivocally exempt *bona fide* CCAs from the definition of "debt relief service" in proposed Section 310.2(m). For example:
 - Adopt clarifying language in the final definition of "debt relief service" that the definition "does not apply to nonprofit credit counseling agencies"; or
 - In the alternative, adopt a rebuttable presumption that an activity of a CCA will not be subject to the definition of "debt relief service" whenever the activity is within the CCA's traditional capacity, including, but not limited to: credit counseling services, debt management plan services (repayment plans for all or a portion of debt owed), HUD-approved housing counseling services, and EOUST-approved bankruptcy counseling and debtor education. In other words, a rebuttable presumption would be created that a CCA's activities that are substantially related to the CCA's mission and purposes would not be considered activities that fall under the requirements of the proposed amendments to the TSR.

¹⁹ It is well established that an organization is engaged in providing a legitimate public benefit if, at the request of consumers, it performs *bona fide* consumer credit counseling and assists consumers in the repayment of their debts by receiving payments from such consumers and distributing such amounts to creditors. *See Consumer Credit Counseling of Alabama, Inc. v. United States*, 44 AFTR 2d 79-5122, 79-5123 (D.D.C. 1978) ("counseling on budgeting and the appropriate use of consumer credit to debt-distressed individuals and families" constitutes an activity that is "charitable and educational" in nature); *accord Credit Counseling Centers of Oklahoma, Inc. v. United States*, 45 AFTR 2d 80-1401 (D.D.C. 1979).

- In the alternative, adopt specific language that describes the FTC's understanding of what is a *bona fide* nonprofit CCA, as a safe harbor. The FTC could discuss various factors that it weighs in the determination of whether a business is, in fact, operating as *bona fide* nonprofit credit counseling agency. Among the factors could be discussed are: (1) whether the entity is organized as a nonprofit; (2) whether it is recognized as exempt from taxation under Code Section 501(c)(3); (3) whether the organization is approved by the EOUST; (4) whether the organization is approved by HUD; and (5) whether the organization only charges reasonable fees for services and allows fee waivers if a consumer is unable to pay.
- Clarify the intent behind proposed Section 310.3(a)(2)(x) in the NPRM which, as written, would prohibit telemarketers of "debt relief service" from misrepresenting "whether a service is offered or provided by a nonprofit entity."²⁰ To be clear, we support the FTC policing the use of the term "nonprofit." This provision, however, is particularly concerning, as it allows the FTC to assert a violation of the amended TSR for merely making statements concerning nonprofit status without further elaboration as to what the term means. While our member agencies support efforts by the FTC to prevent sham nonprofits from using their purported status as a marketing tool, we have concerns regarding the ambiguity about what type of evidence the FTC would consider in determining that the use of the term "nonprofit" was misleading. We also note that even the FTC and others in government often distinguish our organizations from for-profit marketers by using the term "nonprofit," which we believe is an important and critical fact that we should be able to continue to use when describing our organizations.
- Add a new exempt category to Section 310.6(b) of the TSR that states: "(8) This Rule shall not apply to nonprofit credit counseling agencies." In the alternative, the FTC should specifically note the inapplicability of new DRS-specific sections of the TSR to, as a matter of practice, tax-exempt CCAs, as at least one category of nonprofit in recognition of the numerous stringent requirements they must follow to maintain exempt status. In the alternative, the FTC could adopt one of the suggested approaches proposed above regarding Section 310.2(m).
- Lastly, the general analysis accompanying the final TSR should assure CCAs that are recognized as tax-exempt under Code Section 501(c)(3) and engaged in activities such as credit counseling services and debt management plan services (such terms are defined in Code Section 501(q)) that they are outside the scope of the TSR.

Under existing precedent, the FTC would still be able to pursue sham nonprofits, but adopting principles such as those listed above would serve to give legitimate providers of nonprofit (and tax-exempt) credit counseling services comfort that their activities, by definition, would be exempt from coverage by the proposed TSR amendments. *Bona-fide* nonprofit CCAs – and especially tax-exempt CCAs – are already subject to an extensive and interwoven web of federal

²⁰ NPRM at 42004.

and state laws and regulation that constitutes a substantial compliance burden on tax-exempt nonprofit service providers.

V. CONCLUSION.

CCAs that provide educational and counseling services to consumers struggling with debt promote consumer protection. The services offered by tax-exempt CCAs are increasingly sought after and needed by consumers and supported by numerous government and non-governmental entities. The same cannot be said for for-profit DRS marketers that would be covered by the proposed TSR amendments.

The Alliance welcomes the FTC's efforts to protect consumers from unfair or deceptive acts committed by for-profit companies. However, the Alliance requests that the FTC ensure that the new TSR does not hinder the ability of tax-exempt CCAs to provide education and counseling services to consumers or stifle innovative opportunities for our agencies to refine or offer new services that are consistent with our nonprofit mission.

Respectfully submitted,

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