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April 14, 2011

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

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

Submitted via regs.comments@federalreserve.gov and https://ftcpublic.commentworks.com/ftc/riskbasedpricingamendnprm

Re: Fair Credit Reporting Risk-Based Pricing Regulations
Regulation V; Docket R–1407, RIN 7100–AD66 (Federal Reserve)
FCRA Risk-Based Pricing Rule, Amendments: Project No. R411009 (FTC); Model Forms

Dear Ms. Johnson and Office of the Secretary:

This comment letter represents the views of the Credit Union National Association (CUNA) regarding the Federal Reserve Board's (Board's) and Federal Trade Commission's (FTC's) proposed regulation to implement the revisions to Section 615 of the Fair Credit Reporting Act (FCRA) to require that creditors using a credit score in risk-based pricing must disclose that credit score and other related information. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) provisions concerning these new disclosures take effect July 21, 2011. By way of background, CUNA is the largest credit union advocacy organization in this country, representing approximately 90% of our nation's 7,600 state and federal credit unions, which serve 93 million members.

CUNA generally believes that the proposal is consistent with the new statutory requirements and will ultimately facilitate compliance with Section 615 of the FCRA.

However, we urge the Board and FTC to delay the mandatory compliance of the credit score disclosures by at least 6 months or more to minimize compliance burdens and costs. Under Section 615 of the FCRA, the Board and FTC currently have authority to establish the mandatory compliance date, parameters of compliance, and the required disclosures.

A delayed mandatory compliance date is especially important for smaller institutions that are attempting to comply with numerous other Dodd-Frank and regulatory changes. Credit unions will need additional time to develop and adopt new risk-based pricing notices, provide appropriate staff training, and implement the necessary processing changes. Previously, the Board and FTC provided 12 months to implement risk-based pricing regulations, which were effective January 1, 2011. We believe credit unions will need more resources than the Board's estimate of 32 hours to implement the credit score proposals under both the FCRA and ECOA.

Under this proposal, a credit union or another creditor using risk-based pricing must provide the following information, if a credit score is used in setting the material terms of credit or to increase the annual percentage rate (APR):

1) A statement that a credit score takes into account information in a consumer report and a credit score can change over time;
2) The specific numerical credit score used in making the credit decision;
3) The range of possible scores (e.g., FICO scores from 300 to 850);
4) The key factors that adversely affected the credit score such as late payments and high credit utilization (up to 4 factors, or 5 factors if the number of inquiries made to the consumer report is a factor);
5) The date on which the credit score was created; and
6) The name of the entity that provided the credit score (e.g., Equifax, Experian, or Transunion).

Under this proposal, a creditor may choose to use the proposed new model forms or may instead incorporate the credit score information with the current model forms, which remain unchanged. We ask the Board to clarify that a creditor may staple or append the credit score information using a supplemental document to a current model form on general risk-based pricing (H-1 and B-1) or an account review notice (H-2 and B-2).

Also, the ordering of the content on a model notice should not change; the credit score information should not be presented prior to the credit report information. Changing the order of content would impose additional compliance burdens on credit unions without providing significant additional benefits for consumers.

The proposal also clarifies that a creditor may continue to provide a credit score exception notice instead of a risk-based pricing notice. In addition, a creditor would not have to provide a credit score if it uses information from a credit report that does not include a credit score. Further, a creditor would not have to provide the borrower with the credit score of a guarantor or endorser. We believe that these are useful clarifications.

We agree a creditor should have to provide only one credit score when it uses multiple credit scores, as this is consistent with the statutory requirement for disclosing a credit score under 1100F of the Dodd-Frank Act.

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

Sincerely,

Dennis Tsang
Regulatory Counsel