



May 19, 2006

Mary F. Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

RE: Comments on Advance Notice of Proposed Rulemaking Part 717, Fair Credit Reporting – Procedures to Enhance the Accuracy and Integrity of Information Furnished to Consumer Reporting Agencies

Dear Ms. Rupp:

On behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association that exclusively represents the interests of our nation's federal credit unions (FCUs), I am writing in response to the Agencies' advance notice of proposed rulemaking requesting comments regarding procedures to enhance the accuracy and integrity of information furnished to consumer reporting agencies under section 312 of the Fair and Accurate Credit Transactions Act (FACT Act). The advance notice has been jointly issued by the National Credit Union Administration (NCUA), Federal Trade Commission, Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision (the Agencies).

Pursuant to section 312 of the FACT Act, the Agencies must establish guidelines for the accuracy and integrity of information furnished to consumer reporting agencies and regulations to establish reasonable policies and procedures to implement the guidelines. The regulations must also identify circumstances for the reinvestigation of a dispute concerning the accuracy of information in a report based on a consumer's direct request.

In advance of issuing guidelines and regulations implementing section 312 of the FACT Act, the Agencies are soliciting comment on issues relating to (1) the criteria under section 623(e)(3) of the Fair Credit Reporting Act (FCRA) that the Agencies must consider in developing accuracy and integrity guidelines; (2) what constitutes reasonable policies and procedures for implementing the guidelines; and (3) the criteria under

623(a)(8)(B) of the FCRA that the Agencies must weigh when promulgating rules regarding the reinvestigation of direct disputes by consumers. Relative to this, NAFCU would like to take the opportunity to submit the following comments.

### **Accuracy and Integrity Guidelines and Regulations**

#### *Potential Errors or Inaccuracies*

The Agencies are seeking input on the types of errors and omissions that might impair the accuracy and integrity of information furnished to consumer reporting agencies (CRAs).

NAFCU believes that credit unions generally furnish accurate information to consumer reporting agencies; however, certain reporting practices could inadvertently impair the accuracy of consumer information furnished to credit bureaus. For example, consumer information may be inconsistent when furnishers do not report to all three major credit bureaus, or when furnishers only submit negative information to credit reporting agencies.

Inaccuracies may also result from duplicate reporting of collections items by the creditor and the collector. Some collection agencies also do not consistently update on the current status of items that are in collections. Bankruptcy reporting can also be inconsistent. Debt repayments being paid through a bankruptcy trustee, for instance, may not be accurately reported.

Inaccurate information may also be furnished to CRAs if a furnisher's data processing system cannot accommodate disparate requirements imposed by Generally Accepted Accounting Principles (GAAP) and regulation. Some NAFCU member credit unions have indicated that erroneous information may be furnished to CRAs due to discrepancies between general accounting practices and the obligations imposed under the FCRA. Specifically, GAAP (and other regulatory guidelines) require that for vehicle repossessions the estimated net realizable asset value must be recorded in the general ledger; if the loan balance exceeds net realizable value, the difference must be recorded as a loan charge off. As a result, the debtor's account shows a zero balance, which could be erroneously reported to a credit bureau as *positive* consumer information, when the consumer has actually defaulted on the loan. Although some data processing systems allow for records to be specifically annotated and tracked as repossessions, some systems may not have the capability of making this distinction.

#### *Procedures to Identify and Mitigate Errors*

Comment is also invited on the policies and procedures used by furnishers to identify, prevent, and mitigate the practices that may compromise the accuracy and integrity of consumer information.

NAFCU members have indicated that most credit unions have very effective policies and procedures in place to identify, prevent and mitigate inaccuracies in information that is furnished to credit reporting agencies. Most credit unions automatically generate the data on a periodic basis (usually monthly) directly from the core processor. Oftentimes, the data is regularly reviewed prior to transmission. If errors are found, alterations can be made manually and access is typically security protected to ensure that only authorized personnel alter or change credit reporting information. Most credit unions report that errors are minimal and generally corrected prior to submission to the CRAs. Additionally, because consumer data is often submitted electronically (e.g. via E-Oscar), disputes can be processed and corrected very quickly. Accuracy of information is also enhanced when data is transmitted by tape because the information is required to be submitted to the CRAs in a pre-defined standard format. Because all furnishers are required to report the same information, potential inconsistencies are reduced.

### **Direct Dispute Regulations**

The Agencies have also requested comment regarding the circumstances under which a furnisher should be required to investigate a consumer's direct dispute concerning the accuracy of consumer information, and the potential impact and costs associated with allowing consumers to dispute information directly with furnishers.

NAFCU member credit unions have expressed concern that allowing consumers the right to dispute information directly with the furnisher may increase both the volume of requests, and the volume of frivolous disputes. Anecdotal evidence suggests that many consumers have the mistaken belief that they can "clean up" a poor credit history by simply disputing, wholesale, any and all negative information contained in the consumer's credit report. NAFCU member credit unions estimate that up to 90 percent of disputed errors are ultimately verified as being reported correctly; further, members approximate that as much as 90 percent of disputes are deemed frivolous or irrelevant.

Furthermore, direct contact by a consumer with the furnisher may not necessarily provide a more expeditious resolution of a disputed error. For example, if the error is determined to have been caused by the CRA, the dispute would still need to be referred to the CRA for correction. In other words, whether a dispute could be resolved in a more expeditious manner by direct contact with the furnisher would be wholly dependent on the source of the error: if the furnisher made the error, it might be more efficient for the consumer to directly dispute the error with the furnisher. If, however, the CRA was the source of the error, allowing the consumer to dispute the error directly with the furnisher would not result in a more efficient resolution. Moreover, even if the information held by the furnisher were promptly rectified, correction of the consumer report could still be delayed. Furnishers generally submit information to credit bureaus only periodically (monthly, for example); as such, even if the information were promptly corrected in the furnisher's own system, the consumer report would still not be immediately updated.

Ms. Mary F. Rupp  
May 19, 2006  
Page 4 of 4

Accordingly, NAFCU believes that in most circumstances it would be more appropriate for consumer disputes to be made through the consumer reporting agencies. Consumer reporting agencies are perceived as being independent third-parties that will handle disputes objectively. Also, centralization of the dispute and reinvestigation process contributes to a more controlled flow of information between furnishers and consumers. Having a centralized entity and location for the handling of consumer disputes allows for a more organized resolution process. Additionally, time frames for the reinvestigation of disputes are mandated for consumer disputes that are made through CRAs; in contrast, there is no time requirement for credit bureaus to update information that has been voluntarily corrected by a furnisher after direct contact with a consumer. As such, consumers are afforded greater protection by disputing information through consumer reporting agencies.

NAFCU member credit unions have also expressed concern about the potential costs involved in allowing consumers to directly dispute information with furnishers. As already discussed, NAFCU anticipates that the volume of disputes would increase if consumers were permitted to directly dispute information with furnishers. Frivolous claims would also be expected to rise. The additional time and staff required to investigate these claims would result in a significant financial burden to credit unions.

NAFCU would like to thank you for this opportunity to share its views on this advance notice of proposed rulemaking. Should you have any questions or require additional information please call me or Pamela Yu, NAFCU's Associate Director of Regulatory Affairs, at (703) 522-4770 or (800) 336-4644 ext. 218.

Sincerely,



Fred R. Becker, Jr.  
President/CEO

FRB/pwy