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A Member of the Credit Union System

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May 22, 2006

Ms. Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke Street  
Alexandria, Virginia 22314-3428

RE: CUNA Comments on Advanced 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:

The Credit Union National Association (CUNA) appreciates the opportunity to comment on an interagency advanced notice of proposed rulemaking (ANPR) regarding guidelines and rules that the National Credit Union Administration (NCUA) and other agencies are required to develop under the provisions of the Fair and Accurate Credit Transactions (FACT) Act. These guidelines and rules are intended to enhance the accuracy and integrity of information that is furnished to the consumer reporting agencies. CUNA represents approximately 90 percent of our nation's 8,900 federal and state-chartered credit unions.

#### **Summary of CUNA's Comments**

- The ANPR outlines a number of specific problems and issues that adversely affect the accuracy and integrity of the consumer information that is reflected in the credit reports. We believe these examples adequately address the current problems and that the consumer reporting agencies may be able to provide additional information on these issues.
- We agree that furnishers of the consumer information should develop policies and procedures to ensure the accuracy and integrity of the information. However, these rules required under the FACT Act should not dictate the



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specific policies and procedures that furnishers should adopt. They should instead outline general expectations as to what should be included in these policies and procedures.

- Under most circumstances, the consumer reporting agencies will be in a better position than financial institutions to respond to request from consumers to reinvestigate disputes. However, credit unions have and will continue to respond to direct requests from their members in order to help them resolve these issues.
- The frequency of these disputes does not seem to vary by the type of account, such as mortgages, auto loans, or unsecured accounts, and the costs of these reinvestigations are usually not significant since error rates involving credit union furnishers are low and most errors can be corrected easily. However, furnishers should be allowed to charge a fee if there is a request to review information that the furnisher has already reviewed in which a determination was made at that time that the information was correct.
- Smaller financial institutions, such as credit unions, should be able to develop the necessary policies and procedures but they should be given flexibility, particularly if these rules outline specific time deadlines for completing certain actions.
- Although not directly related to this rulemaking, a number of credit unions have experienced difficulties with e-OSCAR, the online credit reporting system developed by the consumer reporting agencies. An updated system will help ensure the goal of enhancing the accuracy and integrity of the credit information.

The FACT Act contains provisions designed to enhance the accuracy of credit reports. These provisions require NCUA, the other Federal financial institution regulators, and the Federal Trade Commission (FTC) to establish and maintain guidelines for use by those that furnish information to the consumer reporting agencies that address the accuracy and integrity of the information. These regulators are also required to issue rules requiring these furnishers to establish policies and procedures for implementing the guidelines and to issue rules identifying the circumstances in which a furnisher, based on a direct request from a consumer, must reinvestigate disputes about the accuracy of information in a credit report.

We appreciate that NCUA and the other agencies have issued this ANPR, prior to issuing specific proposed rules, in an effort to solicit information from the parties that will be directly affected. The ANPR has outlined specific topics in which the agencies have requested information, and CUNA is pleased to provide comments that address this request.

As part of this ANPR, the agencies have requested information regarding the errors, omissions, or other problems that may impair the accuracy and integrity of information furnished to the consumer reporting agencies. The agencies have identified problems, such as information that is incorrect, out of date, associated

with the wrong consumer, omitted, duplicative, or misleading. We believe these examples adequately cover the types of problems that now occur.

We also believe that most of these problems do not occur as a result of information that is reported from the furnisher to the consumer reporting agency, but rather occur after the consumer reporting agency receives, files, and merges the information. For this reason, it may be best for the agencies to discuss these problems directly with the three nationwide consumer reporting agencies. This will not only provide the agencies with information about the extent of these problems and to confirm that these can be addressed by the consumer reporting agencies, but will also provide an opportunity to discuss with them the extent to which financial institutions and other furnishers can make changes to their reporting processes in an effort to help the consumer reporting agencies address these problems.

The agencies have also outlined patterns, practices, and activities that can compromise the accuracy and integrity of the information furnished to the consumer reporting agencies, which include sales of debt to collection agencies; conversion of the information into a standard form; and the frequency, timing, categories, and content of the information furnished to the consumer reporting agencies. For the most part, these examples adequately cover the types of activities that can lead to inaccurate information.

On a related issue, credit unions have found that members are often frustrated as a result of the lag from the time they pay a debt until the time this information is reflected in the credit report. This is especially a problem when a member applies for a significant loan, such as a mortgage or car loan, and the credit report reflects a significant debt, even though it has recently been paid. This discrepancy can either jeopardize the loan or result in a higher interest rate.

Members have the expectation that debt payments should be reflected in the credit report very shortly after these payments are made. Although immediate reflection in the credit report may not be possible, we urge the agencies to work with the consumer reporting agencies to find ways to minimize this delay. CUNA would be happy to work with the agencies and the consumer reporting agencies in this effort.

In connection with this ANPR, the agencies have solicited information as to the policies and procedures that furnishers should use with regard to ensuring the accuracy and integrity of the information that is reported to the consumer reporting agencies. Similarly, the agencies have also solicited information as to the policies and procedures that furnishers should use to reinvestigate disputes, at the request of the consumer.

CUNA has no specific responses to these questions. Although we agree that furnishers should develop such policies and procedures, we strongly urge the

agencies, as part of this rulemaking process, to refrain from imposing specific policies and procedure requirements. The furnishers should have the maximum flexibility to develop their own policies and procedures, taking into account their unique characteristics, such as their size and experiences with regard to credit reporting.

We would certainly welcome guidance from the agencies regarding their expectations as to what should be included in these policies and procedures, but each furnisher should decide how these expectations should be met. For example, an “appropriate investigation” of discrepancies is a reasonable expectation, but each furnisher should determine for itself what types of actions would be considered a reasonable investigation for purposes of developing a policy or procedure in this area.

With regard to the circumstances in which a furnisher should reinvestigate disputes about the accuracy of information in a credit report, we believe that the consumer reporting agencies in most circumstances may be better able to assist the consumer, since they are responsible for collecting the information that is included in the credit report. There are only three nationwide consumer reporting agencies, and they represent a good conduit of the information that is reflected in the credit report. However, credit unions have and will continue to investigate these disputes in response to requests from their members.

As part of the ANPR, the agencies have requested information regarding the costs of requiring furnishers to investigate disputes based on direct requests from consumers. Overall, we do not believe the costs would be all that high, since error rates involving credit union furnishers are rather low and many mistakes, such as incorrect postings on credit reports and misrepresentations, can be easily corrected.

However, a significant problem for credit unions has been those who habitually request credit information when prior requests did not result in the changes that the member had been seeking. To alleviate this problem, the agencies may want to consider allowing furnishers to charge a reasonable fee in those rare instances when there are multiple requests from a consumer to review information that the furnisher has already reviewed and in which a determination was made at the earlier time that the information was correct.

The agencies have also requested information about current practices of furnishers who investigate disputes at the request of the consumer and about the patterns and variations of these disputes. We have not been able to detect noticeable patterns with regard to these disputes. For example, these disputes do not seem to vary by the type of account, such as mortgages, auto lending, or unsecured accounts and the percentage of duplicate disputes received by both the consumer and the consumer reporting agencies appears to be rather low. As mentioned above, credit unions are very responsive to their members in these

situations and are very willing to investigate disputes to the extent necessary to help their members ensure that their credit reports are accurate.

As for the impact on the accuracy and integrity of consumer reports if furnishers were required to reinvestigate disputes, at the request of the consumer, we believe in many situations it would be to the consumers' benefit to approach the consumer reporting agency first as many mistakes may be easily corrected by the consumer reporting agency, such as those resulting from incorrect postings of the information. This will usually lead to a quicker resolution of the disputes, as opposed to requiring the consumer to approach the furnisher first, who then has to investigate and report any mistake to the consumer reporting agency.

However, we recognize that the circumstances and the nature of the error will determine if it is preferable for the consumer to approach the consumer reporting agency or the furnisher and there may be situations in which the furnisher would be in a better position to assist the consumer. An example may be when a consumer is applying for a loan and as part of this process he or she discovers an error on the credit report that may cause the loan application to be rejected. In these situations, the furnisher of the information that is the subject of the mistake may be in the better position to provide assistance by providing a letter or some other type of verification that there is indeed an error.

Finally, the agencies have requested comments on the impact on smaller institutions of procedures that would enhance the accuracy and integrity of the information furnished to the consumer reporting agencies. We are confident that smaller financial institutions, such as credit unions, will be able to develop policies and procedures that address the adequacy and integrity of the consumer information and that they will be able to comply with reasonable rules that identify the circumstances in which they must reinvestigate disputes.

However, we request that if the agencies decide to impose deadlines for taking certain actions, then they should consider giving smaller institutions some flexibility, such as providing them with more time to comply with these deadlines. For example, the Fair Credit Reporting Act imposes a number of deadlines on consumer reporting agencies, such as a thirty-day time limit for investigating disputes and a five-day time limit to report to the consumer that his or her dispute is frivolous. Smaller institutions may need more time if similar deadlines are included in these new rules that are required under the FACT Act. We can provide specific comments as to the need for such flexibility if and when these deadlines are proposed.

Also, although not directly related to this rulemaking process, we note that a number of credit unions have expressed concerns regarding e-OSCAR, the online credit reporting system developed by the consumer reporting agencies. These concerns focus primarily on the difficulty in using the system. We believe that an updated e-OSCAR system will enhance the process of resolving credit

disputes, which will further the goal of ensuring the accuracy and integrity of the credit information.

Thank you for the opportunity to comment on this interagency ANPR regarding these guidelines and rules that the NCUA and other agencies are required to develop under the provisions of the FACT Act. If Board members or agency staff have questions about our comments, please contact Senior Vice President and Deputy General Counsel Mary Dunn or me at (202) 638-5777.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Bloch", is centered on the page. The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

Jeffrey Bloch  
Senior Assistant General Counsel