

October 19, 2004

Federal Trade Commission  
FACT Act Prescreen Rule  
Post Office Box 1030  
Merrifield, VA 22116-1030

Re: Fair and Accurate Credit Transactions (FACT)  
Act, Prescreen Rule, Matter No. R411010

Dear Sir or Madam:

Navy Federal Credit Union provides the following comments in response to the Federal Trade Commission's (FTC) proposed rules to improve the required notice to consumers regarding their right to opt-out of prescreened solicitations for credit or insurance products.

Navy Federal generally supports the intent of the proposed rule to inform consumers about their opt-out rights and believes that the language suggested by FTC adequately informs consumers of their rights. However, we believe that any type-size requirement should be consistent with guidance currently offered elsewhere in regulation. In particular, Regulation Z Commentary, 12 CFR 226.5a (a)(2)1 states that while 12-point type can generally be viewed as "readily noticeable," font sizes less than 12-point are not necessarily less clear and conspicuous. There are a number of ways (changes in font and color, bolding or italicizing language) an organization can structure a document to call attention to information. We believe that this proposed rule should be consistent with existing regulation and that each organization should be allowed to craft their notices in a way that best highlights this information within the broader context of their promotional documents.

We do not support the FTC's "layered" approach to notification and are not convinced that multiple notices conveying similar information in the same marketing document are helpful to consumers. We believe that a single notice can adequately satisfy the requirements of section 213 of the FACT Act and recommend that only one notice be required within a mailing. A single notice, properly located and distinct from the surrounding text, will be as effective as multiple notices and will not overwhelm the consumer with extraneous information.

Further, we recommend that individual organizations be allowed to decide where the information should be located within a document. While placing a notice on the page first seen by the consumer will ensure that the information is prominently displayed, we do not view this as a guarantee that the consumer will grasp its significance. For example, while a consumer may skim over the first page, he or she would almost certainly look to the rates and terms portion of the document prior to making a decision to acquire a credit product. Arguably, a notice in that area might attract more attention than notices in other areas. We support the FTC's goal of

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ensuring that the notice will be viewed by the largest percentage of recipients. However, we believe that the effectiveness of a notice's location will be unique to each document and will rely heavily on the relative significance of surrounding language. Organizations offering the documents are best qualified to decide where the notice should be placed and should be allowed to use their expertise in that area.

Navy Federal appreciates the opportunity to comment on the Federal Trade Commission's proposed rules to improve the notice to consumers regarding their right to opt-out of prescreened solicitations for credit or insurance products.

Sincerely,

A handwritten signature in black ink, appearing to read "W. A. Earner". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

W. A. Earner  
Acting President

WAE/pjm