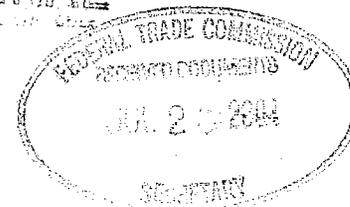


NASCUS
An Umbrella Organization

National Association of State Credit Union Supervisors
NASCUS Credit Union Council
NASCUS Foundation for the Preservation of Dual Chartering
National Institute for State Credit Union Examination

ORIGINAL



July 20, 2004

FACT Act Affiliate Marketing Rule
Matter No. R411006
Federal Trade Commission
Office of the Secretary
Room H-159 (Annex Q)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: FACT Act Affiliate Marketing Rule

To Whom It May Concern:

The National Association of State Credit Union Supervisors (NASCUS), the professional association representing the forty-eight state and territorial regulatory agencies which supervise the nation's 4,094 state-chartered credit unions, is writing in response to the Commission's request for comments on proposed new Section 624 of the Fair Credit Reporting Act (FCRA), Affiliate Marketing Rule.

NASCUS appreciates the opportunity to provide comments on this proposed Rule.

Maintaining a level playing field

The credit union system in the United States is a dual-chartering system where state-chartered credit unions engage in healthy competition with their federally-chartered counterparts. In addition to operating under state laws and regulation, ninety-one percent (91%) of state-chartered credit unions are federally insured and must also comply with National Credit Union Administration (NCUA) insurance rules and regulations. However, in the case of FCRA, the Commission has been given regulatory authority over state-chartered credit unions while NCUA maintains regulatory authority for federal credit unions. In developing new Section 624, the Commission should maintain parity between state and federal credit unions by ensuring its FCRA regulations for state-chartered credit unions mirror those of NCUA's for federal credit unions.

Responsibility for providing notice and an opportunity to opt out

The Commission has invited comments pertaining to whether the affiliate providing or receiving the information should satisfy the notice requirement. A flexible rule of construction would balance the consumer's (credit union member's) interest in privacy with affiliate's interest in alerting consumers to service opportunities. Because Section 624 does not specify which affiliate must provide the opt out notice, the providing or receiving affiliate, the Commission should provide for either affiliate to provide the notice based upon mutual agreement.

The important point in the regulation is the consumers be given the opportunity to opt out. Section 214 of the FACT Act allows for combined opt out notices to satisfy other provisions of law such as Gramm-Leach-Bliley. As a practical matter, most "information providing" affiliates would combine their various opt out notices. However, there could be business considerations that would suggest that the information receiving affiliate provide the opt out notice before using the consumer information it has been provided. The Commission should allow institutions to make those business decisions as long as the intent of the statute, that consumers be given a meaningful opportunity to opt out of receiving solicitations is fulfilled.

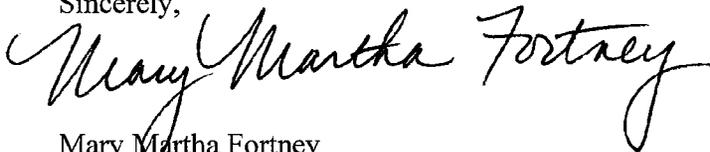
Scope of coverage

The proposal's definition of eligibility information appears to appropriately track the more complicated language of the statute. By providing a comprehensive, but less complex regulatory definition, the Commission will facilitate compliance by smaller institutions.

Thank you again for the opportunity to comment on the proposed regulations.

If you have any questions, please call me at 703-528-8688 or Brian Knight at 703-528-8689.

Sincerely,



Mary Martha Fortney
President and Chief Executive Officer

cc: NCUA Board Members
NASCUS Board Members
NASCUS Council Board Members