



National Association of State Credit Union Supervisors  
NASCUS Credit Union Advisory Council  
National Institute for State Credit Union Examination

July 11, 2005



Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20551

Re: Docket No. R-1188

Dear Ms. Johnson:

The National Association of State Credit Union Supervisors (NASCUS)<sup>1</sup> submits comments in response to the Board of Governors of the Federal Reserve System's request for comments on Docket No. R-1188, the interim final rule, Fair Credit Reporting Medical Information Regulations.

NASCUS Comments

- The Board of Governors of the Federal Reserve System's promulgation of Part 232 (Regulation FF) to clarify that §604(g)(2) of the Fair Credit Reporting Act applies to all creditors including state-chartered credit unions is an important step in preserving the credit union dual chartering system and ensuring a level playing field between financial institutions.
- The Board of Governors of the Federal Reserve System should clarify that §604(g)(3)(B) of the Fair Credit Reporting Act extends the exception for the sharing of medical information with affiliates of Part 232 creditors such as state-chartered credit unions to the same extent as may be authorized by the named Agencies pursuant to §604(g)(3).

1) The Board of Governors of the Federal Reserve System's promulgation of Part 232 (Regulation FF) to clarify that §604(g)(2) of the Fair Credit Reporting Act applies to all creditors including state-chartered credit unions is an important step in preserving the credit union dual chartering system and ensuring a level playing field between financial institutions.

As the Board noted in the interim final rules, many commenters interpreted the proposed rule's medical information provisions to apply only to those creditors whose federal regulatory agencies were enumerated in the statute. Such a reading of §604(g)(2) would not only have placed creditors such as state-chartered credit unions at a competitive disadvantage with regard

<sup>1</sup> NASCUS is the professional association of the 48 state and territorial credit union regulatory agencies that charter and supervise the nation's 4,000 state-chartered credit unions.

to these transactions, it would have likely resulted in reduction of the availability of credit to the consumer. Neither result was likely intended by Congress.

By promulgating Part 232, the Board has clarified that all creditors may obtain medical information to the same extent as those whose federal banking agencies were enumerated. This clarification ensures more robust access to credit for consumers and provides competitive equality among creditors. The interim final rule provides the necessary levels of protection for consumers' private medical information while permitting the open discussion between a consumer and a creditor, discussions including medical information, that may help the consumer qualify for the loan he or she needs.

2) The Board of Governors of the Federal Reserve System should clarify that §604(g)(3)(B) of the Fair Credit Reporting Act extends the exception for the sharing of medical information with affiliates of Part 232 creditors such as state-chartered credit unions to the same extent as may be authorized by the named Agencies pursuant to §604(g)(3).

NASCUS believes that the exception for sharing of medical information provided in §604(g)(3)(B) provides Part 232 creditors with the same exceptions as creditors whose federal banking Agencies have been enumerated in the statute.<sup>2</sup> However, we are concerned that the promulgation of specific regulations by the federal banking agencies, and the lack of information sharing regulations for Part 232 creditors might cause confusion within the industry and among consumers as to the permissibility of information sharing with affiliates.

NASCUS understands that for state-chartered credit unions, regulatory authority for information sharing resides with the Federal Trade Commission. We urge the Board to clarify in its rules that §604(g)(3)(B) provides statutory authority for sharing of medical information within Graham-Leach-Bliley's permissible purposes. Given that the Board has promulgated the rules concerning the obtaining of medical information for Part 232 creditors, it makes sense that consumers and industry would look to those rules for some direction as to the sharing of that information. By clarifying its understanding of the statutory exception's application to Part 232 creditors, the Board would provide the guidance needed by consumers and industry in the absence of immediate rulemaking on the part of the Federal Trade Commission.

NASCUS appreciates the opportunity to comment on the Board of Governors of the Federal Reserve System's request for comments on Docket No. R-1188, the interim final rule, Fair Credit Reporting Medical Information Regulations. Please do not hesitate to contact NASCUS if you wish to discuss our comments.

Sincerely,

Brian Knight  
Vice President, Regulatory Affairs

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<sup>2</sup> §604(g)(3)(B) of the Act provides an exception to the prohibition on sharing of medical information without authorization for any purpose described in §502(e) of Public Law 106-102 ("Graham-Leach-Bliley").